



U.S. Department of Justice

Environment and Natural Resources Division

90-11-2-06089

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September 3, 2003

VIA FEDERAL EXPRESS

Kevin R. Turner
12994 Quarter Horse Road
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Re: United States v. Pharmacia Corp., et al., Civil No. 99-63-GPM (S.D. Ill.)

Dear Mr. Turner:

Enclosed please find the condensed **transcript** of your deposition in the above referenced case, along with the original signature **page and deposition** correction sheet. Please review the transcript and complete the correction sheet. **You** may make more copies of the correction sheet if you need them to record all of your **corrections**. Then, sign the original signature page in the presence of a notary public. Please **return the completed** original signature page and correction sheet to me at the address listed above. **If you have** any questions, please call me at (202) 514-5261. Thank you for your **assistance**.

Sincerely,

Susan Koepsell
Paralegal Specialist

Enclosures

cc: Renita Ford (w/out enclosures)

EPA Region 5 Records Ctr.



226616

1 UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF ILLINOIS

3 UNITED STATES OF AMERICA,)
4)
5 PLAINTIFF,)
6)
7 v.) NO. 99-63-DRH
8)
9 PHARMACIA CORPORATION, ET)
10 AL.,)
11)
12 DEFENDANTS.)
13)
14 PHARMACIA CORPORATION AND)
15 SOLUTIA INC.,)
16)
17 COUNTERCLAIM)
18 PLAINTIFFS,)
19)
20 v.)
21)
22 UNITED STATES OF AMERICA, ET)
23 AL.,)
24)
25 COUNTERCLAIM)
DEFENDANTS.)

17 DEPOSITION OF KEVIN TURNER
18 TAKEN BY J. ROGER EDGAR, ESQ.
19 ON BEHALF OF DEFENDANTS HAROLD WIESE AND
20 WIESE PLANNING & ENGINEERING

21 JULY 16, 2002

22 VOLUME I

23 REPORTED BY TRACI BUTZ
24 CERTIFIED SHORTHAND REPORTER
25 CERTIFIED REALTIME REPORTER

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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)

) PLAINTIFF,)

v.) NO. 99-63-DRH

PHARMACIA CORPORATION, ET)
AL.,)

) DEFENDANTS.)

PHARMACIA CORPORATION AND)
SOLUTIA INC.,)

) COUNTERCLAIM)
) PLAINTIFFS,)

UNITED STATES OF AMERICA, ET)
AL.,)

) COUNTERCLAIM)
) DEFENDANTS.)

DEPOSITION OF KEVIN TURNER, produced, sworn and
examined on the 16th day of July, 2002, at the offices
of Greensfelder, Hemker & Gale, P.C., 10 South Broadway,
Suite 2000, in the City of St. Louis, State of Missouri,
before Traci Butz, Certified Shorthand Reporter,
Certified Realtime Reporter, in and for the State of
Missouri, in a certain cause now pending in the United
States District Court, Southern District of Illinois,
between UNITED STATES OF AMERICA, Plaintiff, and
PHARMACIA CORPORATION, ET AL., Defendants, and PHARMACIA
CORPORATION AND SOLUTIA INC., Counterclaim Plaintiffs,
and UNITED STATES OF AMERICA, ET AL., Defendants.

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EXHIBITS

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4	(Action Memorandum dated 6/9/99)	
5	Turner Exhibit 2	Page 45
6	(Aerial Photograph)	
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8	(Unilateral Administrative Order dated 6/21/99)	
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	(August 2000 Monthly Report)	

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between counsel for the parties that this deposition may be taken in shorthand by Traci Butz, Certified Shorthand Reporter, Certified Realtime Reporter, and afterwards transcribed into printing, and signature by the witness is not waived.

KEVIN TURNER, ON-SCENE COORDINATOR, of lawful age, being first duly sworn to tell the truth, the whole truth and nothing but the truth, deposes and says as follows:

EXAMINATION BY MR. EDGAR:

Q. Good morning.

A. Good morning.

Q. My name's Roger Edgar. I represent Wiese Planning & Engineering and Harold Wiese.

Please state your name.

A. Kevin Turner.

Q. Okay. Have you ever had your deposition taken before?

A. No.

Q. Okay. Let me go over the rules with you.

They're very simple and pretty direct. Rule No. 1.

You're under oath, so tell the truth. Rule No. 2.

Don't forget Rule No. 1. If you don't understand a

EXHIBITS

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3	Turner Exhibit 15	Page 128
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question that I put to you, don't answer it. We don't want you to guess. There is no shame in saying I don't know if that's the correct answer which is sort of like don't guess at anything. This is not a hero contest to see who can sit here for the longest period of time without a break. If you'd like a break to go to the bathroom, get a glass of water, more chewing gum, let me know.

Lastly, your lawyer, Miss Torrent, has the right and indeed the duty to object to questions if she thinks that I've stepped out of bounds or -- we don't have a referee to throw down the flags here. So unless she tells you otherwise, after she makes an objection, if she does, you can go ahead and answer the question unless she instructs you otherwise. Then at some later time the referee will determine the correctness of her position or the correctness of mine, as the case might be. I'll ask you questions, and then we'll go around the room, and some or all of these lawyers will ask you questions, and that's about it.

MS. TORRENT: Roger, before we begin, if you would allow me a moment to note for the record that last week --

MR. EDGAR: Sure. Yeah.

MS. TORRENT: -- last week the United States

1 produced to the parties a notice of objection to the
2 deposition, and to sum up very briefly, the notice is
3 based upon the fact that United States's position is
4 that discovery or inquiry into matters pertaining to the
5 response actions are confined to the review of the
6 Administrative Record, and I won't belabor it any more
7 than just to cite that. We set forth our position in
8 that notice, and we are producing Mr. Turner here today
9 subject to those concerns.

10 With that, Roger, I'd turn it over to you.

11 Q. (By Mr. Edgar) Where do you live?

12 A. Marion, Illinois.

13 Q. And you're employed by the EPA?

14 A. US EPA.

15 Q. How long have you worked for them?

16 A. Since October of 1989.

17 Q. And where do you go to work in the morning?

18 A. It varies.

19 Q. All right. Before you came here today, where
20 was your last time that you were reporting for work?

21 A. Currently I am doing some job site cleanups
22 in East St. Louis.

23 Q. Do you have anything to do with the Crab
24 Orchard remedial action that is being undertaken there?

25 A. No.

1 Q. And when did you graduate?

2 A. In 1984.

3 Q. With what degree?

4 A. Two degrees or one degree with two majors. A
5 Bachelor of Science in biology and wildlife management.

6 Q. All right. And any education after your
7 first degree in college?

8 A. No.

9 Q. Okay. Now, after you got out of college,
10 will you describe your work history for me beginning
11 with the job that you first held and bring me up to
12 date.

13 A. Fairly soon after college I joined the Peace
14 Corps, spent two and a half years in Senegal, West
15 Africa working in a fisheries program there where we
16 taught or assisted locals in the raising of fish, the
17 fish culture. I had various responsibilities in my
18 Peace Corps career in Senegal. Following that I
19 returned to the Chicago area and held a series of odd
20 jobs for -- oh. Well, I traveled and held a series of
21 odd jobs for eight months, nine months. I then got a
22 job with the US General Services Administration in
23 Chicago at the Federal Building and worked as a
24 contract specialist for one year, and then -- a little
25 over one year and then got -- was hired on by the US

1 MR. SEPESI: Roger, can I ask you to speak up
2 a little bit? It's hard to hear you.

3 Q. (By Mr. Edgar) How long have you been
4 employed by the EPA?

5 A. Since October of '89.

6 Q. And what is your present job title?

7 A. On-Scene Coordinator.

8 Q. And what do your responsibilities consist of
9 as an On-Scene Coordinator?

10 A. My responsibilities are two-fold. Well,
11 actually, they're multi-fold, but they're primarily
12 two-fold, and that is emergency response activities,
13 representing the government in an emergency response to
14 make sure that cleanup activities are done correctly,
15 for example, pipeline spills, chemical fires, barge
16 incidences, incidences that result in environmental or
17 releases of oils or hazardous materials to the
18 environment. The second part is to perform time
19 critical and non-time critical removal actions.

20 Q. And you're the government eye -- the
21 government's eyes and ears on site when those
22 activities take place?

23 A. Correct.

24 Q. Where did you go to college?

25 A. University of Wisconsin at Stevens Point.

1 EPA.

2 Q. And your employment began in 1989?

3 A. October.

4 Q. Okay. Tell me your job history with EPA
5 beginning in 1989 and coming forward.

6 A. I have held two positions with the US EPA,
7 one as a Remedial Project Manager and subsequently now
8 as an On-Scene Coordinator. Both of these -- these
9 responsibilities are under the Superfund program. The
10 Remedial Project Manager position involved dealing with
11 what Congress in 1980 called the worst sites of the
12 United States, the NPL, the National Priorities List
13 sites. I had a series of eight or ten of those sites
14 through my remedial career, and then in -- I think it
15 was 1996 or '97, I can't remember exactly, I became an
16 On-Scene Coordinator.

17 Q. Okay. What was your first assignment as an
18 On-Scene Coordinator?

19 A. My very first assignment or my -- or my
20 assignment that was solely mine? See, under the --
21 under that program you -- you do some mentoring.
22 You're mentored for a while with some more senior level
23 OSCs until some point when you get your own.

24 Q. What was the first site where you were the --
25 I don't know if this is the correct term -- the head

1 OSC or the principal?

2 A. That was a -- an oil spill response that
3 subsequently turned into a long-term cleanup in
4 Lawrenceville, Illinois with the former Texaco
5 refinery. At the time it was the Indian refinery, and
6 I was involved with the cleanup activity where we used
7 Oil Pollution Act funds for that cleanup.

8 Q. Are you familiar with the term Sauget Area 1?

9 A. Yes.

10 Q. Okay. What was your first involvement with
11 that site?

12 A. Sauget Area 1? My first involvement was with
13 the culvert replacement projects.

14 Q. And tell me where that -- where were those
15 culverts replaced? I think in Dead Creek, correct?

16 A. In Dead Creek.

17 Q. Okay. And they were replaced in Creek
18 Segment B?

19 A. No. That would be between Creek Segment --
20 between Creek Segments E and F.

21 Q. Okay. What was the time period that that
22 project began and your responsibilities for that
23 project commenced, the culvert replacement project?

24 A. I do not remember the exact date of that.

25 I -- I would have to look at some documents for that

1 name of that road. Cargill Road. I think it's called
2 Cargill Road.

3 Q. And what was your next involvement following
4 the completion of the culvert replacement project?
5 What was your next area of responsibility within Area 1
6 at Sauget?

7 A. Then it would have been the -- the Dead Creek
8 sediment removal project and subsequently the TSCA
9 compliance containment.

10 Q. Were you the first On-Scene Coordinator
11 assigned responsibility with respect to the sediment
12 removal project?

13 A. I do not know.

14 Q. Okay. So you don't know if there was anyone
15 who had preceded you in that responsibility?

16 A. I don't know.

17 Q. When did you begin the project?

18 A. Could you clarify begin?

19 Q. Well, what was your first day on the job as
20 the On-Scene Coordinator for the Creek Segment B
21 sediment removal project? Again, I'm not asking you
22 for the precise date, but month and year would be good
23 enough.

24 A. You know, are you talking about when was the
25 first day that I was in the field, or when was the

1 date.

2 Q. Well, I'm not asking for an exact date, but
3 do you remember the year?

4 A. '99. '98, '99, maybe.

5 Q. Yeah. That's good enough. And that was your
6 first involvement with any of the various sites within
7 Sauget Area 1; is that correct?

8 A. Correct.

9 Q. And tell me in a general way what the -- I
10 mean, the replacement of culverts is somewhat
11 self-descriptive, but I'd like you to amplify that a
12 little bit and tell me what it was that you were doing.

13 A. The Dead Creek had -- had I believe seven or
14 nine culverts from the front end of segment B down to
15 the bottom end where we subsequently replaced these
16 culverts, and it was determined that the flow of Dead
17 Creek was partly impinged by culverts either being
18 undersized or being blocked, and so we were involved
19 with replacing the -- the bottom -- the last two
20 culverts within creek segment or within Dead Creek.

21 Q. Now, these are culverts that went underneath
22 a road or a highway?

23 A. One of them went under the old Terminal
24 Railroad embankment, and the other one was under the
25 road right in front of there, and I can't remember the

1 first day that I began to come up with -- began to talk
2 with various people about the project?

3 Q. Let's do it both ways. Let's take the latter
4 first. Let's talk about the first time that you began
5 to speak with others about the project.

6 A. That would have been probably in 2000, early
7 2000.

8 Q. The early part of the year?

9 A. Maybe -- no. It was probably a little
10 earlier than that. It was probably during the culvert
11 replacement portion of it.

12 Q. And these are conversations that you're
13 having with who, for example?

14 A. It would have been with the Remedial Project
15 Manager from EPA out of Chicago, Mike McAteer, and my
16 attorney, Tom Martin.

17 Q. Tom Martin?

18 A. Correct.

19 Q. I've got to back up. I forgot to ask you one
20 of the introductory questions. What did you do to
21 prepare for this deposition? Now, don't tell me that
22 you talked to Karen Torrent. I know you did. I'm not
23 entitled to know that. What else did you do, if
24 anything, to prepare for the deposition?

25 A. Nothing.

1 Q. Nothing?

2 A. Talked to her a little bit.

3 Q. Did you review any depositions which had been
4 taken in this case?

5 MR. HOOKER: You have to answer verbally.

6 A. No.

7 Q. (By Mr. Edgar) All right. So when you began
8 your conversations with Mike McAteer in the early part
9 of the year 2000, tell me in a general way what did
10 those conversations consist of?

11 A. Actually, I think we began it more -- more in
12 '99. The -- the culvert replacement project was really
13 the precursor to the Dead Creek sediment removal in
14 that we recognized that Dead Creek had contamination,
15 and we recognized that Dead Creek regularly flooded,
16 and so we began the -- the culvert replacement project
17 in advance to the actual sediment removal. So as we
18 were moving through and actually replacing those
19 culverts which took a lot of time, there was a lot of
20 coordination efforts associated with that. We were
21 engaging in conversation as to what was the next best
22 step for Dead Creek as a follow-on to the -- to the
23 culvert replacements.

24 Q. Now, I understand the work that you did with
25 respect to the replacement of the culverts. I presume

1 A. I would have to look at the various documents
2 to come up with an exhaustive lists, but just the big
3 picture ones, we've got heavy metals, we've got
4 volatile organic compounds, VOCs, semi-volatile organic
5 compounds, and PCBs.

6 Q. What are the heavy metals, for example?

7 A. Lead -- I think what we referred to in our
8 action memo was lead and arsenic were above levels in
9 the table. In the action memo we referred to those,
10 but I would have to look at the document to list off
11 the other ones.

12 Q. You used the term action level. Can you tell
13 me in a general way what an action level is? You said
14 certain of the metals were above the action level, and
15 I'd just like to know in general what is an action
16 level?

17 A. Okay. An action level is a -- a number
18 associated with a particular compound that has been
19 established through any number of entities, whether
20 it's a governmental entity or -- or a public health
21 entity that if it is above that level can produce
22 adverse effects to human health or the environment.

23 Q. And if it exceeds that certain level, then it
24 becomes the subject of regulatory concern?

25 A. Correct.

1 that facilitated the flow of Dead Creek through those
2 culverts, correct?

3 A. Through those two culverts that were
4 replaced, it did facilitate that.

5 Q. Why were you interested in -- in facilitating
6 the flow? Was that --

7 A. To try to help to alleviate some of the
8 flooding activities and the potential for contamination
9 to go outside of the banks of Dead Creek.

10 Q. All right. So let me -- I guess implicit in
11 what you're saying is that the creek sediments were
12 contaminated, as you understood it, and if the creek
13 were to flood, then those contaminants would be
14 released outside of the creek?

15 A. Yes.

16 Q. Okay. And the culvert replacement project
17 was designed to, in part, prevent that from occurring?

18 A. Correct.

19 Q. What were some of the contaminants -- I'm
20 going to use the term which I've come to learn called
21 contaminants of concern. Have you ever heard that?

22 A. Yes.

23 Q. I'm sure you have. What were the
24 contaminants of concern in Dead Creek? I don't need an
25 exhaustive list.

1 Q. Okay. Now, you've told me when your first
2 conversations about Dead Creek, Creek Segment B
3 occurred. How about your first day on the job? When
4 did that happen?

5 A. Actually, I didn't -- I'm referring to all of
6 Dead Creek, not just Segment B. I'm referring to the
7 entire length of the creek. The first day on the job?
8 I need some better definition of what first day on the
9 job means to you.

10 Q. When was the first day when you went out and
11 stood on the banks of the creek and looked down?

12 A. That would have been in '99 when we were
13 beginning the culvert replacement portion.

14 Q. When did the sediment removal project begin?

15 A. We began conversations associated with the
16 sediment removal in late '99, so if that -- that is a
17 beginning -- a possible beginning time frame.

18 Q. Okay. Who were -- the conversations were
19 conversations between you and other employees of EPA?

20 A. Me and other employees of EPA as well as
21 Solutia.

22 Q. All right. Why were you having conversations
23 with Solutia?

24 A. Solutia being the -- being one of the primary
25 PRPs in Area 1.

1 Q. Well, do you know how it was that Solutia was
2 nominated or came forward to have conversations with
3 EPA as opposed to Mobil Oil or Cerro Copper, for
4 example?

5 A. No, I do not.

6 Q. When did the field work for the sediment
7 removal project begin?

8 A. That would have been in the fall of 2000.

9 Q. And what -- as the On-Scene Coordinator, what
10 were your responsibilities with respect to the sediment
11 removal project?

12 A. Of course, I was involved with all of the
13 document preparation in order to even begin field work,
14 and then once field work began, I was the -- the
15 government's eyes and ears to make sure that the
16 project proceeded according to the documents that were
17 produced.

18 Q. Now, with respect to your activities as the
19 government's eyes and ears, how often were you
20 physically on site? Were you there every day? Did you
21 visit once a year? What was the frequency of your --

22 A. That would vary. Now, I had full-time
23 oversight. I had a contractor who was there every day.
24 My visits would have varied depending on my particular
25 activities. It could have been once a week. It might

1 that was produced. There were a series or a work plan
2 which subsequently got broke into three sections.
3 There was then the containment cell design report with
4 various sections within that document. Within the UAO
5 it pretty much stipulated out what documents needed to
6 be produced before construction could begin, during
7 construction, after construction. There were many
8 documents.

9 Q. Okay. My next series of questions are simply
10 designed to permit me to get a feel for the flow of the
11 documents. One of the documents that was produced is
12 an Engineering Evaluation Cost Analysis/Feasibility --
13 Remedial Investigation Feasibility Study. Now, that's
14 a mouthful, but I'm going to abbreviate it by calling
15 it the EECA. Can we have that understanding?

16 A. Yes.

17 Q. I have seen a draft EECA which was delivered
18 to EPA in March of 2000, I believe. Are you familiar
19 with that document?

20 A. Limited.

21 Q. What I'd like to know is when Solutia or its
22 representatives delivered a draft EECA to EPA, the EPA
23 begins to review it, correct?

24 A. Correct.

25 Q. Okay. And at some point in the process that

1 have -- if nothing in particular was going on, very,
2 very minimal activities were going on or something that
3 I deemed as being low threat, low -- low interest on my
4 behalf, then maybe it was once a month. Maybe it was
5 once every six weeks, but I always had full-time
6 oversight there.

7 Q. So I take it during the course of this
8 project, you had a number of other responsibilities in
9 addition to acting as the OSC for the sediment removal
10 project?

11 A. Correct.

12 Q. Okay. When you weren't working on the Creek
13 Segment B sediment removal project, you were doing some
14 other work for EPA?

15 A. Correct.

16 Q. A moment ago you mentioned that prior to the
17 commencement of the field work there were certain
18 documents that you worked on which were predicates for
19 the commencement of the field work. What were those
20 documents?

21 A. The -- there was -- there was -- there were a
22 lot of documents. Some of the first things that we
23 would have been involved with from a document
24 standpoint was an action memo, an action memorandum.
25 There was the UAO, Unilateral Administrative Order,

1 draft EECA will become the final document, correct?

2 A. Correct. However, that EECA was delivered to
3 Mike McAteer in the remedial program, not to me, so I
4 have no direct knowledge of that EECA.

5 Q. That's okay. Have you had any oversight
6 responsibility or review responsibility with respect to
7 any EECA which has been delivered by Solutia to EPA?

8 A. No.

9 Q. That's the responsibility of who;
10 Mr. McAteer?

11 A. At the time it would have been Mr. McAteer.
12 Now there's -- he's moved on and there's a different
13 individual there.

14 Q. Okay. Who is that different individual?

15 A. Mike Riboridy.

16 Q. Can you spell his last name?

17 A. R-I-B-O-R-I-D-Y.

18 Q. I don't want you to speak for Mr. Riboridy.
19 At some point I guess he'll speak for himself, but what
20 are his responsibilities with respect to the EECA?

21 MS. TORRENT: Object.

22 Q. (By Mr. Edgar) Is it to review them on behalf
23 of the EPA?

24 MS. TORRENT: Objection to the form of the
25 question to the extent it calls for speculation. If the

1 witness can answer the question, please go ahead and do
2 so.

3 A. I -- I think it stands to reason that he's
4 going to review it. Beyond that, I don't know what he
5 did with them or what any of them did with them.

6 Q. (By Mr. Edgar) As a part of that review,
7 does -- what I'm driving at is does the review process
8 result in EPA's approval of the document? I mean, the
9 review is done for some purpose, I trust, not simply
10 because he wants to read something in the morning as
11 opposed to the newspaper. He reads it for a purpose,
12 and the purpose of reviewing it is to approve it; is
13 that correct?

14 A. That's -- I -- I can't speak on behalf of why
15 he's going to review an EECA. I can speak on behalf as
16 to why I review a work plan for -- for Dead Creek, but
17 as to, you know, receiving an EECA and reviewing it,
18 that -- you know, if -- that could go any number of
19 ways, and I really can't speak on their behalf.

20 Q. That's somebody else's job, and you don't
21 know what's done with it?

22 A. I didn't look at them. I didn't review them.
23 I didn't get involved in any of them.

24 Q. What about a work plan? When you review a
25 work plan, what is your purpose in reviewing it?

1 began to review it, correct?

2 A. Correct.

3 Q. And the purpose of your review was to
4 determine whether it complied with these various
5 parameters that you've described, correct?

6 A. Correct.

7 Q. You have to answer yes because she can't take
8 down nods.

9 A. Correct.

10 Q. She's pretty good, but she can't take down
11 the nods.

12 That was a yes answer?

13 A. It was.

14 Q. Now, tell me again the -- the documents which
15 you're considering as you review the -- the work plan.
16 One was the unilateral order.

17 A. When I reviewed the work plan, I would make
18 sure that the contents of the -- or the intent of the
19 UAO and the contents of the UAO, the requirements of
20 the UAO are part of the work plan.

21 Q. All right. And you mentioned you reviewed it
22 to determine if it was in compliance with the NCP?

23 A. Yes.

24 Q. And that's an abbreviation for what?

25 A. National Contingency Plan.

1 A. My purpose for reviewing a work plan is to
2 see that the work to be performed or that the work plan
3 and the contents of the work plan complies with the
4 action memorandum, the unilateral order or whatever
5 that mechanism is that we -- whatever kind of a
6 document we have to compel the work, and that it
7 complies with the NCP and the various regulations
8 associated with the cleanup, and then subsequent to
9 that if it all meets that, then it is ultimately to get
10 the work completed.

11 Q. So the review that you undertake has as its
12 objective ultimately the approval of the document, if I
13 understand? I'm getting a blank stare. You don't
14 understand the question?

15 A. Ultimately to approve the document? You
16 know, I think that in many of our -- of our -- whether
17 it's a UAO or an AOC, it states that the work cannot
18 begin without EPA approval, so I think it is implicit
19 that a document or some sort of approval needs to be
20 given before work can actually begin.

21 Q. So when a work plan is tendered to you, who
22 would send you the work plan for the sediment removal
23 project, for example?

24 A. For Dead Creek, it came from Solutia.

25 Q. So when Solutia sent you this work plan, you

1 Q. That was a part of your review process?

2 A. Yes.

3 Q. Yes. Do you remember when the field work
4 began for Creek Segment B?

5 A. For all of -- all of Dead Creek, it began in
6 the fall of 2000.

7 Q. And that's the sediment removal?

8 A. That's the sediment removal action.

9 Q. Okay. And what was the first -- I'd like you
10 to describe the project and how it went forward. I
11 think probably the first thing you had to do was clear
12 some brush or something like that.

13 A. Yes.

14 Q. Yes. What happened next? Walk me through
15 the project.

16 A. There were several activities occurring
17 simultaneous -- simultaneously. However, the first
18 things that happened in the fall of 2000 would have
19 been the clearing and grubbing along the banks of
20 the -- of the creek, and that was -- it was serving
21 several purposes, you know, not the least of which was
22 to open it all up for actual sediment removal but also
23 following the clearing and grubbing, there was a --
24 there was a pipeline or pipes and sumps put in to
25 de-water the creek, and that -- and that entire --

1 there was three and a half miles worth of piping put in
2 in order to de-water it, and then the de-watering
3 operations began in -- well, shortly, in the fall of
4 2000.

5 Q. Let me stop you right there. What do you
6 mean by de-watering? I -- it's sort of a simplistic
7 question. I guess it means take water out?

8 A. Well, the way it was set up was that each of
9 the creek segments were designated primarily by -- by
10 bridges that cross over the creek with some variation
11 in that, but by and large, and at the -- at each bridge
12 there would have been a -- a hole dug within the creek
13 bottom and a sump put into the bottom of that hole, and
14 then attached on either end of it, depending on where
15 you were in the creek, there was piping coming out, and
16 I believe it was 24-inch, 24-inch black PVC.

17 Q. Okay. Was it perforated? Did it have holes
18 drilled in it, the PVC pipe?

19 A. The -- the sump -- no, it did not. The sump
20 down at the bottom would have had some -- some -- some
21 PVC. I'm not quite sure of the design on each one of
22 these, but they may have had some collection-type
23 perforated pipe down at the bottom of the -- of the
24 creek, and then they -- the water, then, was pumped via
25 these sumps into this pipe and was taken all the way

1 downstream to a -- to Creek Segment E and then
2 discharged back into the creek. The idea behind that
3 is -- was that we wanted the creek segment sediments to
4 be as dry as possible, and so the -- the sump served to
5 draw down the water when rain events would occur. The
6 sumps would kick on, and they would pump the water
7 downstream.

8 Q. Was the water treated? Was it captured and
9 treated before it was released?

10 A. Before it was released, no. It was not
11 captured and treated. However, before it was collected
12 it would have gone through a series of -- of weirs or
13 sedimentation basins which basically was gravel, so all
14 of the water as we -- basically in the creek we created
15 a low point so all the water within that particular
16 segment would go to these low points.

17 Q. To the sump?

18 A. To the sump.

19 Q. Right.

20 A. Before the water would reach the sump, it
21 would go through a series of sedimentation weirs and
22 then gravel in order to drop out the sediment below.

23 Q. What is a weir? Can you spell it for me
24 first?

25 A. W-E-I-R, maybe. Weir.

1 Q. What is it?

2 A. In this case it was a -- a series of back and
3 forth silt fences. They were offset such as -- such as
4 this so the water would hit here and go around this one
5 and then hit here and have to go around it and then hit
6 the next one and go around it. It's designed to slow
7 the water down in order to allow the sediments to drop
8 out.

9 Q. So then the water that was collected in the
10 sumps was pumped down to Creek Segment E, you think?

11 A. I believe that was Creek Segment E, right by
12 the -- the church down there.

13 Q. And then released?

14 A. And then released.

15 Q. Okay. How long did the de-watering project
16 take?

17 A. It was -- it was operational for the entire
18 duration of the --

19 Q. Oh. All right.

20 A. -- of the sediment removal.

21 Q. All right. Well, the -- pick up your
22 description now with the project and how it was
23 undertaken following on the de-watering phase.

24 A. Well, the de-watering phase was an ongoing
25 thing, as I said, and then at the same time as the

1 de-watering was going on, we were looking at design
2 reports for the containment cell, and Illinois EPA was
3 heavily involved with the review of the containment
4 cell design, and we had a series of long meetings to
5 hash out the details of the containment cell. Once we
6 reached a certain point where we knew that the design
7 requirements and the design documents were far enough
8 along, we allowed Solutia's contractor to begin the
9 sediment removal aspects of it, of the creek and Site
10 M. Site M is physically located next to Creek Segment
11 B and was surface water -- surface hydraulically
12 connected to Segment B.

13 Q. Let's talk about the sediment removal within
14 Creek Segment B, and can we understand that Creek
15 Segment B is bordered on the north by Queeny Avenue and
16 on the south by what, Judith Lane?

17 A. Yes.

18 Q. Okay. Is that a good description of Creek
19 Segment B?

20 A. Yes. I don't remember the streets, but --

21 Q. I'd like to focus on the actual removal of
22 the sediments. Do you know how much material was
23 removed? That's a bad question. Let me -- how deep
24 did the excavation go in the bed of Dead Creek to
25 remove these sediments, six inches, a foot?

1 A. In Creek Segment B?
 2 Q. In B.
 3 A. I don't remember the exact depth. It would
 4 have varied. I don't remember the exact depth.
 5 Q. But the depth was not a subject left to
 6 chance, right? I mean, there were definite parameters
 7 as to how deep the excavation should go?
 8 A. Yes.
 9 Q. How about along the banks? Was there
 10 material excavated from the banks of the creek?
 11 A. Yes.
 12 Q. And again, do you recall about how much in
 13 terms of depth? How far in did you go?
 14 A. I -- I don't remember the exact numbers.
 15 Q. Again, that was not left to chance, though?
 16 A. No, it was not.
 17 Q. As the excavation in the bed of Creek Segment
 18 B and along the banks progressed, did the contractor
 19 encounter any sewer lines or any piping in that area?
 20 A. Yes.
 21 Q. Okay. What kind of a pipe was it?
 22 A. There were two pipes. One came out of the --
 23 out of the east bank, and a different -- and a
 24 different pipe came out of the west bank.
 25 Q. Let's talk about the pipe on the west bank.

1 What kind of a pipe was it?
 2 A. It was a metal pipe. I don't remember the
 3 diameter.
 4 Q. But it was metal?
 5 A. I think it was -- yes. I think it was metal.
 6 Q. Do you recall how long the pipe was?
 7 A. No.
 8 Q. Was it removed?
 9 A. No, it was not removed.
 10 Q. How about the pipe on the east bank?
 11 A. The east bank? I don't remember the --
 12 the -- what the pipe was made of, but it was smaller in
 13 diameter than the one on the west bank.
 14 Q. And your recollection is that the pipe on the
 15 west bank was a metal pipe?
 16 A. Correct.
 17 Q. Mr. McAteer has given his deposition in this
 18 case, and he described that during his excavation
 19 effort at Site G he encountered what appeared to him to
 20 be a sewer pipe running in an east-west direction, and
 21 I want to know if during any of the excavation of Creek
 22 Segment B you encountered anything that appeared to be
 23 a sewer pipe.
 24 A. It could be described as a sewer pipe. It
 25 could be described as a pipe coming out of Creek

1 Segment B.
 2 Q. What is that? Do you mean the pipe you've
 3 just been talking about? To the best of your
 4 recollection, it was a metal pipe?
 5 A. To the best of my recollection.
 6 Q. Okay. Do you have pictures of that?
 7 A. I was given a picture by Solutia's
 8 contractor, or was it my contractor? I was given a
 9 picture at one point for -- I don't know if I could
 10 find it.
 11 Q. But I mean, you kept it? You just didn't
 12 throw it away, right?
 13 A. I don't believe I threw it away. It might be
 14 in the file somewhere.
 15 Q. Okay. And the pipe on the east side of Dead
 16 Creek appeared to you to be smaller than the one on the
 17 west side?
 18 A. Correct.
 19 Q. What was done with the sediments after they
 20 were removed from the creek in Creek Segment B?
 21 A. In Creek Segment B they were placed directly
 22 into the containment cell.
 23 Q. And where was the containment cell located?
 24 A. It was located on the property east of the
 25 creek -- I'm sorry -- west of the creek directly next

1 to Creek Segment B.
 2 Q. Do you have any information as to the source
 3 of the contaminants of concern found in Creek Segment
 4 B?
 5 A. No.
 6 Q. I'm going to ask you a series of questions
 7 along that topic. You don't have any information,
 8 then, that suggests to you that Harold Wiese or Wiese
 9 Planning and Engineering was the source of any of the
 10 contaminants of concern found in Creek Segment B?
 11 A. No.
 12 Q. Do you have any information that suggests
 13 that Monsanto was the source of any of the contaminants
 14 found within Creek Segment B?
 15 A. None directly.
 16 Q. I sense the beginning of a smile. How about
 17 indirectly?
 18 A. I would say that it is common knowledge --
 19 where Solutia's plant is located, it is common
 20 knowledge, common history knowledge that Solutia or
 21 Monsanto at the time deposited waste materials into the
 22 creek. Beyond the common knowledge associated with
 23 Dead Creek in the location of Solutia's plant, I have
 24 no other -- no other direct knowledge.
 25 Q. All right. So that's the extent of your

1 knowledge about Monsanto and its possible -- and the
2 possibility of it being a source of the contaminants
3 found in Creek Segment B?

4 A. Correct.

5 Q. Do you have any information that -- that
6 suggests to you that Cerro Copper was the source of any
7 of the contaminants of concern found within Creek
8 Segment B?

9 A. No.

10 Q. There are other creek segments other than
11 Creek Segment B, I take it? There's Creek Segment C
12 and so forth?

13 A. Correct.

14 Q. And you had oversight responsibility for the
15 sediment removal project undertaken within those creek
16 segments?

17 A. Within Creek Segments B through F including
18 Site M.

19 Q. Okay. I want to try and shortcut this, if I
20 can. I asked you a series of questions about Mr. Wiese
21 or his company being the source of contaminants within
22 Creek Segment B. You replied I have no such knowledge.
23 Were I to put the same question to you with respect to
24 the other creek segments, would your answer be the same
25 insofar as Mr. Wiese or his company being the source of

1 that. Are you trying to determine how clean is clean?
2 Did you clean it up as a result of the sediment removal
3 project to the satisfaction of the EPA, the US EPA? Is
4 that what you're trying to determine?

5 MS. TORRENT: Object to the form of the
6 question.

7 You can answer the question if you understand
8 it.

9 A. Why don't you rephrase it?

10 (The previous question was read back as
11 requested.)

12 A. The purpose of it is to -- to ensure that the
13 contamination within Dead Creek is removed to or below
14 actionable levels.

15 Q. (By Mr. Edgar) Okay. And then certain
16 activity has to be done at the -- at the containment
17 cell?

18 A. Correct.

19 Q. And that would consist of what?

20 A. Installing the final cap.

21 Q. And what will the final cap -- what will it
22 be made of?

23 A. It's a -- it's a multi-layered engineered cap
24 which involves clay and various synthetic liners to be
25 ultimately covered with clean dirt and grass.

1 contaminants within those creek segments?

2 A. It would be the same response.

3 Q. Okay. Has the sediment removal project come
4 to conclusion?

5 A. No.

6 Q. What remains to be done?

7 A. As part of the excavation, post-excavation,
8 there was a series of sampling activities that occurred
9 up and down the entire Dead Creek. Those analytical
10 results were compiled into a risk assessment, and that
11 risk assessment is currently being reviewed by Mike
12 McAteer -- I'm sorry -- by Mike Riboridy, and following
13 that review, then we are either going to go back and
14 excavate more or we're going to do some other
15 activities. Following that, then the containment cell
16 will then have its final cap installed.

17 Q. Well, let's just talk about the sampling.

18 Samples have been taken from the creek, from the
19 various creek segments?

20 A. Yes.

21 Q. And the samples are being analyzed?

22 A. The samples have been analyzed.

23 Q. The samples have been analyzed. Now, I want
24 to put this in my words, and I want to see if you
25 agree. If you don't, just say hey, I don't agree with

1 Q. Okay. And you're not going to put the cap on
2 until you determine whether or not you do or do not
3 have to put more material in the -- in the cell,
4 correct?

5 A. Correct.

6 MR. EDGAR: Why don't you give me a minute? I
7 think that's it.

8 MS. TORRENT: Can we go off the record for a
9 moment?

10 (There was a discussion off the record.)

11 MR. EDGAR: Mr. Turner, thank you very much.
12 That's all the questions I have. I'm going to turn you
13 over to these other lawyers.

14 THE WITNESS: Great.

15 EXAMINATION BY MR. HOOKER:

16 Q. Mr. Turner, my name is Todd Hooker, and I
17 represent Cerro Copper Products, and I'm going to be
18 asking you a couple of questions today. Hopefully we
19 can get people to be quiet. I just want to clear up a
20 few -- a few of Mr. Edgar's areas of inquiry before I
21 move on to my own, and to some extent they're going to
22 overlap a little bit. I'm going to try to expand on
23 some of the information he gathered from you a little
24 earlier.

25 I was a little confused, and I think some of

1 the other people may have been. Mr. Edgar brought up a
2 draft EECA/RIFS, and hopefully you can confirm for me.
3 My understanding is that really applies to the Area 1
4 administrative order, and you're in charge of the Dead
5 Creek sediment removal and culvert replacement under a
6 different order; is that correct?

7 A. That is correct.

8 Q. Okay. So you had nothing to do with the
9 EECA/RIFS; is that correct?

10 A. That is correct.

11 Q. And there's no EECA for your project; is that
12 correct?

13 A. That is correct.

14 Q. Okay. Your project is the culvert
15 replacement and Dead Creek sediment removal project; is
16 that correct?

17 A. That is correct.

18 Q. Okay. You're going to have to forgive me. I
19 have a bunch of stuff here. I tried to be as organized
20 as I could be, but it doesn't always work, though.

21 MR. HOOKER: Okay. I want to start with --
22 can we mark this -- I'm going to have a lot of
23 documents.

24 Q. (By Mr. Hooker) Mr. Turner, I've marked a
25 document as Turner 1. Will you take a look at that?

1 you were describing for Mr. Edgar that you were
2 involved in preparing, this is -- this would be the
3 first document you were involved in preparing for the
4 culvert replacement project?

5 A. Yes.

6 Q. Okay. Can I direct your attention to page 2?
7 Under Section 2, Paragraph A, the very first sentence
8 says Dead Creek of the Sauget Area 1 site. Do you see
9 that?

10 A. Yes.

11 Q. Okay. We've been -- we've been talking a lot
12 today about Sauget Area 1 and Dead Creek. Could you
13 explain to me your understanding of what comprises the
14 Sauget Area 1 site?

15 A. I don't -- no, I cannot, and that's because I
16 don't know all of the various sites associated with
17 Sauget Area 1.

18 Q. Okay. If I showed you a picture of the
19 Sauget area, would that help refresh your recollection?

20 A. I could look at a picture or a map --

21 Q. Okay.

22 A. -- but it would not necessarily mean that I
23 have the knowledge as to whether or not this particular
24 site is in Sauget Area 1 or in Sauget Area 2. I
25 don't -- I don't know that.

1 MR. SEPESI: Todd, do you have copies?

2 MR. HOOKER: I don't. I brought so much
3 stuff, it was impossible for me to carry all these
4 copies. It's dated June 19, 1999. It's an action
5 memorandum. Some of you may have your own copies.

6 MR. EDGAR: What's the date, Todd?

7 MR. HOOKER: It's June 9th, 1999. It's called
8 an action memorandum. It says it's from Kevin Turner to
9 William E. Munro.

10 MS. TORRENT: Todd, you have two documents
11 here. Do you want him to review the entire document?

12 Q. (By Mr. Hooker) Just take a look at it.
13 First of all, do you recognize this document,
14 Mr. Turner?

15 A. Yes.

16 Q. Did you prepare this document?

17 A. Yes.

18 Q. Is this the action memorandum that you
19 referred to earlier when speaking to Mr. Edgar?

20 A. One of them, yes.

21 Q. Okay. One of them. All right. And this
22 action memorandum applies to which of the Dead Creek
23 projects that you were involved with?

24 A. Culvert replacement.

25 Q. Okay. So in the list of the documents that

1 Q. Okay. So what did you mean here, then, by
2 Dead Creek of the Sauget Area 1 site?

3 A. Dead Creek is within Sauget Area 1.

4 Q. So that's all -- let me just back up. Let me
5 show you a picture.

6 Mr. Turner, I'm going to show you what I've
7 marked as Turner 2. Let counsel see it to see if she
8 has any objections. This document was produced by Cerro
9 as part of its initial disclosures and also to the
10 government and to whoever else wanted copies of our
11 documents. It has a Bates number of -- I can barely
12 read it. CCU -- I think it's 127335. I could be wrong,
13 though. It's kind of blurry.

14 Okay. Mr. Turner, have you had an opportunity
15 to take a look at this aerial photograph?

16 A. Yes.

17 Q. Do you recognize the -- the photograph to
18 depict the Sauget area generally or a portion of it?

19 A. Yes.

20 Q. Okay. Do you see a portion of Dead Creek in
21 this photograph?

22 A. Yes.

23 Q. Could you take -- let's see. How about this
24 yellow highlighter right here, and this photo is dated
25 1973, so take that yellow highlighter right there and

1 mark on that picture what you believe to be Dead Creek.
 2 MR. HOOKER: Is that red?
 3 MS. TORRENT: Yeah. Can I make a suggestion?
 4 A yellow highlighter may not come out on the copy. May
 5 I offer my red pen instead?
 6 MR. HOOKER: Sure. Sure.
 7 A. Where do you want me to begin?
 8 Q. (By Mr. Hooker) Okay. Well, why don't you --
 9 draw for me and show for me with that marker where you
 10 believe Dead Creek to be on this photograph, where it
 11 begins and how it travels, flows.
 12 A. Right here is the beginning of Segment B,
 13 running south to here. Here is Site M. This up here,
 14 though I was not involved with it, is the former
 15 Segment A or at least what I'm aware of.
 16 Q. Since you're not familiar with Creek Segment
 17 A, let's just get you to mark on that picture what you
 18 believe to be Creek Segment B. Can you put -- is that
 19 the -- draw a double line. That way I know the east
 20 bank and the west bank. And could you put an arrow in
 21 the white part saying CSB or something along those
 22 lines so we know that's your designation for Creek
 23 Segment B? And was there another portion on that map
 24 that's one of your projects?
 25 A. Site M is right here.

1 Q. Okay. Can you draw a circle around that and
 2 put a designation for that Site M? Okay. I
 3 unfortunately don't have a map or a picture that shows
 4 any more of the creek, but if you could, I'm going to
 5 have a piece of paper here. Could we just call that --
 6 write on there Turner 2A? Just real briefly, if you
 7 could make an extension of the creek segments down. It
 8 doesn't have to be scale, but just so I know where the
 9 creek segments go in your mind so I understand how you
 10 view the site.
 11 MS. TORRENT: I just object to the drawing of
 12 the diagram to the extent he can do that.
 13 Q. (By Mr. Hooker) Have you been on site,
 14 Mr. Turner?
 15 A. Yes.
 16 Q. And you've seen Creek Segment C?
 17 A. Yes.
 18 Q. And you've seen Creek Segment D?
 19 A. Right.
 20 Q. All the way down to Creek Segment F?
 21 A. Yes.
 22 Q. Would you be comfortable trying to draw a
 23 picture of that?
 24 A. No.
 25 Q. Okay. That's fine. I'll withdraw 2A.

1 But as far as you know, that's Creek Segment B
 2 and Site M in Turner 2?
 3 A. Yes.
 4 Q. Is there anything else in that picture that's
 5 part of the site?
 6 A. On the -- on the west side of Creek Segment B
 7 is where the containment cell was built.
 8 Q. Is the containment cell part of the Sauget
 9 Area 1 site?
 10 A. Could you rephrase that?
 11 Q. Well, is -- is the containment cell -- let's
 12 back up. We first were referring to your statement
 13 here in June of '99 that Dead Creek of the Sauget Area
 14 1 site, and it goes on to say stretches from the Alton
 15 & Southern Railroad at its northern end and flows south
 16 through Sauget and Cahokia for approximately 3.5 miles.
 17 Is the containment cell part of that description of
 18 Dead Creek in '99?
 19 A. No.
 20 Q. Okay. So is the containment cell part of the
 21 Sauget Area 1 site in 1999?
 22 A. No.
 23 Q. Okay. All right. Now, is there anything
 24 else on that map or that aerial photograph that you can
 25 identify as being part of the Sauget Area 1 site?

1 A. I know that Site G is located right here,
 2 approximately. I don't know the exact boundaries.
 3 Q. Well, can you -- for the record, can you mark
 4 on the map or the aerial photograph where you believe
 5 Site G to be so when we look back a month or two months
 6 from now, we will know what you meant by right here?
 7 Is there anything else? Is that a no?
 8 A. That's a no.
 9 Q. All right. Let's go back to Turner 1.
 10 That's the action memo. Can you turn to page 3? It's
 11 where you have your little table. Look right there.
 12 Do you see at the top where it says Creek Segment CS-A
 13 is the northernmost segment of the creek?
 14 A. Yes.
 15 Q. I want you to scroll down to the next to the
 16 last sentence in that paragraph where it starts
 17 approximately.
 18 A. Yes.
 19 Q. I'm sorry. Right before that. It says
 20 remediation work was conducted by Cerro Copper in CS-A
 21 or Creek Segment A in 1990. Do you see that?
 22 A. Yes.
 23 Q. And then the next sentence says approximately
 24 27,500 tons of contaminated sediments were removed to
 25 RCRA and TSCA permitted facilities. Do you see that?

1 A. Yes.
 2 Q. Do you know a portion of the sediments
 3 containing only non-RCRA metals like copper and zinc
 4 were also disposed of in municipal landfills?
 5 A. I was unaware of that.
 6 Q. You were unaware of that. Were you surprised
 7 to learn that?
 8 A. No comment.
 9 Q. No comment? You just didn't know?
 10 A. I just didn't know.
 11 Q. And earlier when you talked to Mr. Edgar, you
 12 referred to a chart in the action memo that described
 13 action levels. Is this the chart that you were
 14 referring to on page 3?
 15 A. Yes.
 16 Q. Can I direct your attention to the column
 17 that says PCBs?
 18 A. Yes.
 19 Q. What are PCBs?
 20 A. Polychlorinated biphenyls.
 21 Q. Okay. And the -- at the last column it says
 22 ecotox threshold, and it's .023 parts per million.
 23 What does that transfer to parts per billion?
 24 A. 2.3 if you move the decimal place over.
 25 Q. So it would be 2.3 parts per billion?

1 A. That's what it would be.
 2 Q. What's your understanding of an ecotox
 3 threshold?
 4 A. My understanding is is that that's a bugs,
 5 bees and bunnies numbers, that the number -- if that
 6 number is greater, if it is greater than this number --
 7 Q. Contamination?
 8 A. Contamination. Then bugs, bees, and bunnies
 9 are going to be contaminated.
 10 Q. That also includes macro invertebrates that
 11 are living in that sediment water?
 12 A. Yes.
 13 Q. I think what you're referring to when you say
 14 bugs, bees, and bunnies, it's the toxicity to animals
 15 that live in that environment; is that correct?
 16 A. That's correct.
 17 MS. TORRENT: Object to the form of the
 18 question.
 19 You may answer it.
 20 MR. HOOKER: He already did.
 21 A. That is correct.
 22 MS. TORRENT: You need to wait.
 23 Q. (By Mr. Hooker) Take a second to answer my
 24 question. That way your counsel has an opportunity to
 25 object if she needs to.

1 Would you turn to the next page, please? And
 2 under Section III, Paragraph A, would you read that
 3 first sentence for me beginning with this condition?
 4 A. Out loud?
 5 Q. Yes, please.
 6 A. This condition exists at the site due to high
 7 levels of organic and inorganic contaminants found in
 8 the sediments and surface water of Dead Creek which
 9 could potentially be released into residential areas
 10 via flood waters backing up behind blocked or
 11 inadequately-sized culverts.
 12 Q. Okay. So you -- it was your understanding in
 13 1999 when you wrote this memo that there were
 14 contaminants both in the sediment and the surface
 15 water; is that correct?
 16 A. Yes.
 17 Q. All right. The next sentence reads some of
 18 the contaminants in Dead Creek are known carcinogenics
 19 or suspected carcinogenics. Do you see that?
 20 A. Yes.
 21 Q. Are PCBs a known carcinogenic, if you know?
 22 A. I don't remember.
 23 Q. Do you know whether they're a suspected
 24 carcinogenic? You don't know either way, whether
 25 they're known or suspected?

1 A. They would be a minimal suspected
 2 carcinogenic.
 3 Q. So it's your understanding at the very least
 4 PCBs are a suspected carcinogenic and they may also be
 5 a carcinogenic, but at this time you don't know?
 6 MS. TORRENT: Object to the form of the
 7 question.
 8 Q. (By Mr. Hooker) I'm not trying to put words
 9 in your mouth. I'm just trying to understand your
 10 testimony.
 11 THE WITNESS: Can I answer?
 12 MS. TORRENT: Yes. You may answer.
 13 A. That is correct.
 14 Q. (By Mr. Hooker) All right. If we could turn
 15 to the next page under proposed actions. There's a
 16 series of -- of what looks like items here that Solutia
 17 or the PRPs -- strike that.
 18 There are a series of actions where the PRPs
 19 are going to be the recipient of a unilateral order to
 20 conduct action based on this action memo; is that
 21 correct?
 22 A. No. That is not correct.
 23 Q. Okay. Why don't you tell me what that means?
 24 A. This action memo went out as an AOC, not a
 25 unilateral order. It went out with an AOC, not a

1 unilateral order.

2 MR. EDGAR: Kevin, could you keep your voice
3 up a little bit because I can barely hear you, and I
4 don't think they can.

5 Q. (By Mr. Hooker) Is it your recollection as
6 you sit here today that this went out as an
7 Administrative Order on Consent?

8 A. This accompanied an Administrative Order on
9 Consent, not a unilateral order.

10 Q. When you say this action memo accompanied,
11 does that mean it accompanied to Mr. Muno or it went to
12 the PRP as an administrative order?

13 A. When it went to the PRP, it went as an
14 Administrative Order on Consent.

15 Q. It did?

16 A. Not a UAO. This action memo doesn't -- the
17 action memo doesn't reflect that one way or the other,
18 but your first statement said UAO, and UAO is wrong.
19 It was an action memo.

20 Q. So let me just re-ask the question.

21 A. I'm sorry. Not action memo. It was an AOC.

22 Q. All right. Well, let's just go to the order,
23 then.

24 MS. TORRENT: Todd, before you leave this
25 document, I would note for the record that there are

1 MS. TORRENT: Which are you going to next?

2 MR. HOOKER: It would be the June 21st, '99
3 order. Actually, it's a cover letter and an order. The
4 letter is dated June 21st, '99. It's addressed to Mike
5 Light from William E. Muno with an order attached.

6 MS. TORRENT: Could I make a request on the
7 record that to the extent that in each deposition we
8 provide -- we provide enough copies for counsel and
9 maybe one or two extras for others at the table so we
10 can move the depositions along a little faster?

11 MR. HOOKER: Sure. It was just very hard for
12 me to bring them.

13 MS. TORRENT: I understand.

14 MR. HOOKER: It's hard for me to bring any
15 more.

16 MS. TORRENT: I know this topic came up in
17 negotiations of the case management order. However
18 people elected to sign off of that as practice, I'm
19 going to ask or re-ask that we do that and don't forget
20 to do that in future depositions.

21 Sandy, you're looking at me like I'm confusing
22 you.

23 MS. WUNDERLICH: No. I mean, I think in
24 Todd's situation, as much as I would like to have a copy
25 of whatever he's referring to, I don't know how he's

1 some handwritings and markings on the document that
2 you've marked as Turner Exhibit No. 1 that I don't see
3 on the original that I have.

4 MR. HOOKER: It may be mine. I didn't --

5 MS. TORRENT: Do you want to then replace this
6 with a clean copy at some point in time?

7 MR. HOOKER: Well, if nobody has any
8 objection, that would be great.

9 MS. TORRENT: Okay. Any objections? **Speak up**
10 now or forever hold your peace.

11 MR. EDGAR: What am I consenting to?

12 MR. HOOKER: Let it be noted that nobody
13 objected.

14 MR. EDGAR: I don't know. I mean, I'm
15 thinking about it.

16 MR. HOOKER: Roger, there appears to be one or
17 two comments in the margin of the copy I handed
18 Mr. Turner.

19 MR. EDGAR: Why don't we just agree that he
20 didn't put anything on there?

21 MR. HOOKER: That's fine.

22 MR. EDGAR: Okay.

23 MR. HOOKER: Now that Miss Torrent has thrown
24 me off my train of thought, let me find this next
25 document.

1 supposed to truck all of that on a plane.

2 I assume you came out by plane.

3 MR. HOOKER: I came out by plane.

4 MS. WUNDERLICH: I think people are trying to
5 be accommodating to the extent they can, but --

6 MS. TORRENT: I understand.

7 MS. WUNDERLICH: Do you want to go to Kinko's
8 now?

9 MR. HOOKER: No. I want to continue with the
10 deposition.

11 MS. TORRENT: No. It would be nice if counsel
12 defending the deposition had a document in front of them
13 at a minimum.

14 MS. WUNDERLICH: I agree.

15 MS. TORRENT: It will certainly be our
16 practice when we take depositions to provide those
17 documents.

18 MR. HOOKER: I tried to get these documents
19 copied by Kinko's when I arrived last time, but my
20 experience with Kinko's has been less than stellar, and
21 Mr. Edgar was kind enough to accommodate us last time.
22 I didn't want to ask that favor again because there are
23 quite a few documents I brought. All of them have been
24 made available by the government, and everybody should
25 have their own copies, although I understand you don't

1 know what I'm going to use, but to the extent I can
2 accommodate your request, Miss Torrent, I'll be happy to
3 do so.

4 Q. (By Mr. Hooker) Now, Mr. Turner, now that we
5 have those administrative tasks taken care of, I'm going
6 to hand you a document that's marked as Turner 3.

7 MR. HOOKER: This is the '99 order in case you
8 guys want to look at your own copies.

9 MS. TORRENT: Would you like him to look at
10 this front to back, or are you going to point him to
11 specifics?

12 Q. (By Mr. Hooker) Take a look at it first.
13 Start with the cover letter, Mr. Turner, and I'll try to
14 point you to specific sections. My first question,
15 though, is have you ever seen this document prior to
16 today? Let's focus on the order. Have you ever seen
17 the order prior to today?

18 A. Yes.

19 Q. Okay. If you turn to the second page of the
20 letter and look at the BCCs, you're the third one down
21 on that BCC list, are you not?

22 A. Yes.

23 Q. Do you recall receiving a copy of this letter
24 and order?

25 A. No. I don't receiving -- recall receiving

1 it. That doesn't mean I didn't.

2 Q. So you don't have any reason to believe that
3 this was not sent to you as indicated in the letter?

4 A. Right.

5 Q. If I could just direct your attention to the
6 very first sentence of the letter. It says enclosed --
7 this letter is directed -- directed to Michael Light of
8 Solutia dated June 21st, 1999, and the very first
9 sentence reads enclosed please find a Unilateral
10 Administrative Order issued by the US Environmental
11 Protection Agency under Section 106 CERCLA.

12 Does this refresh your recollection as to
13 whether the order issued to Solutia was a UAO or an AOC?

14 A. Yes, it does.

15 Q. How does that refresh your recollection?

16 A. I see that my prior statement was incorrect.

17 Q. In what regard?

18 A. That it was a UAO and not an AOC.

19 Q. Okay. Can we go back to the action memo just
20 for a second? The pages aren't numbered. The fifth
21 page. There we go. Under Section V, Proposed Actions,
22 can you go to B? It says -- would you read that for
23 me?

24 A. If the culvert replacement project involves
25 the excavation of contaminated sediments or the pumping

1 and/or disposal of creek water, these media must be
2 properly disposed of at a RCRA and TSCA approved
3 disposal facility in accordance with US EPA offsite
4 disposal rule found at 40 CFR 300.440, 58 Federal
5 Register, 49215, parentheses, September 22nd, 1993, end
6 parentheses.

7 Q. Okay. So at this point in time in June of
8 '99, the contaminated sediments were to be taken or
9 disposed of off site; is that correct?

10 A. Correct.

11 Q. Now let's move on to the next page where it
12 says -- I believe it's Section IX, Recommendation.
13 That says, the second sentence, this decision is based
14 upon the Administrative Record for the site, and if you
15 turn a couple pages, there's an index, and up in the
16 right-hand corner it's marked AR. Do you see that?

17 A. Yes.

18 Q. Is that the Administrative Record that you're
19 referring to in the Recommendation paragraph?

20 A. Yes.

21 Q. Okay. Now, were there any documents that you
22 considered for the action memo that are not part of
23 this Administrative Record index?

24 A. I do not recall.

25 Q. You don't recall. Do you know whether this

1 admin -- whether this Administrative Record index
2 constitutes the entire Administrative Record for the
3 action memo as of June 1999, for the culvert
4 replacement project as of June of 1999?

5 A. I do not recall.

6 Q. Okay. Was it your responsibility to make
7 sure that the ad -- that the Administrative Record was
8 complete and accurate?

9 A. Partially.

10 Q. Partially. Okay. What does that mean?

11 A. Partially my responsibility.

12 Q. Did you share that with somebody else?

13 A. Yes.

14 Q. And who did you share that responsibility
15 with?

16 A. For this particular action memo, it would
17 have been shared with my counsel, Tom Martin --

18 Q. Okay.

19 A. -- and with Mike McAteer of the remedial
20 program.

21 Q. Okay. Let's take a look at this
22 Administrative Record index that we have here. The
23 first two documents are from 1988, and that's an E&E
24 study, I believe; is that correct?

25 A. It appears so, yes.

1 Q. Do you recall reviewing that document or
 2 those two documents?
 3 A. I do not recall.
 4 Q. You don't recall. The next two documents
 5 are -- the first one is entitled Removal Action Report,
 6 Sauget Area I, Site G, and the next one is an action
 7 memorandum, No. 4, from Sam Borries to William Muno.
 8 It's my understanding that both of those documents
 9 relate to Site G; is that correct?
 10 MS. TORRENT: Objection to the form of the
 11 question.
 12 Q. (By Mr. Hooker) Do you know?
 13 MS. TORRENT: You may answer the question.
 14 A. No, I do not.
 15 Q. (By Mr. Hooker) What's your understanding
 16 from reading this -- this Administrative Record index
 17 whether -- about those documents, if you have one?
 18 A. Document No. 4, the action memorandum, I
 19 can't tell what that is for.
 20 Q. Okay. Do you know who Sam Borries is?
 21 A. Yes.
 22 Q. Do you know that he was the On-Scene
 23 Coordinator for Site G?
 24 A. Yes.
 25 Q. Did you know he was the On-Scene Coordinator

1 A. Based upon the title/description, that is
 2 correct.
 3 Q. Okay. How about based on your recollection?
 4 Are there any other documents listed here that relate
 5 or refer to Dead Creek?
 6 MS. TORRENT: Objection to the form of the
 7 question.
 8 You may answer it if you understand it.
 9 A. I don't have any recollection.
 10 Q. (By Mr. Hooker) Okay.
 11 MR. SEPESI: Can you speak up, Mr. Turner?
 12 THE WITNESS: I don't have any recollection.
 13 Q. (By Mr. Hooker) Do you know or do you recall
 14 which -- which of these documents you relied upon for
 15 the factual basis for the removal action?
 16 MS. TORRENT: Objection to the form of the
 17 question. It calls for speculation.
 18 Q. (By Mr. Hooker) You can answer.
 19 MS. TORRENT: You can answer.
 20 A. I don't remember specifically which ones of
 21 these I -- I would have read versus which ones of these
 22 I -- maybe somebody else read within our -- within our
 23 team, so I -- no, I don't recall.
 24 Q. (By Mr. Hooker) Okay. Let's go to the order,
 25 then.

1 for Site G in 1994 and 1995?
 2 A. Yes.
 3 Q. Okay. So even though you have that
 4 information, you can't tell whether the action
 5 memorandum referenced here is for Site G?
 6 MS. TORRENT: Objection to the form of the
 7 question. The witness has already answered the
 8 question.
 9 You can answer it if you can.
 10 A. I can't tell.
 11 Q. (By Mr. Hooker) Okay. Let's move on to --
 12 let me just cut to the chase here. Are there any
 13 documents here other than document 1 and 2 that refer
 14 specifically to Dead Creek?
 15 A. Could you rephrase that?
 16 Q. Are there any documents on this index that
 17 refer specifically to Dead Creek other than document
 18 Nos. 1 and 2 that are dated 1988?
 19 A. Yes. Document No. 1 under update No. 2.
 20 Q. Well, isn't that your action memorandum?
 21 A. Yes.
 22 Q. Okay. So your action memorandum and the E&E
 23 report specifically referencing Dead Creek are the only
 24 three documents on here that reference Dead Creek; is
 25 that correct?

1 Go to page No. 2 of the order. Actually, I'm
 2 sorry. Page No. 4. Actually, I'm not trying to trick
 3 you, I swear. Page 3 at the very bottom. Numeral 4.
 4 Do you see that?
 5 A. Yes.
 6 Q. Okay. That says sediment and surface water
 7 samples collected by EPA and the IEPA have detected a
 8 wide variety of organic and inorganic contaminants in
 9 each of the creek segments. If you turn the page to
 10 page 4, it starts to break down each creek segment; is
 11 that correct?
 12 A. Yes.
 13 Q. So if I go back to the Administrative Record
 14 index and I look for information that's been collected
 15 by EPA and Illinois EPA -- can you do that? Can you go
 16 back to the index, the Administrative Record index that
 17 you attached to your memorandum? There you go. Would
 18 the 1988 Ecology & Environment report be the
 19 information collected by IEPA?
 20 A. It could.
 21 Q. You don't know?
 22 A. I -- I would have to review those particular
 23 documents and see what those documents say in relation
 24 to these numbers that I see on the page.
 25 Q. So you don't know where you got these numbers

1 from?
 2 A. I don't know exactly, but I would assume they
 3 come from these documents that are referenced here.
 4 Q. Okay. So the 1988 data, probably? All
 5 right. Let's go to page 4, Creek Segment B. About
 6 three -- about eight lines down it begins elevated
 7 levels of PCBs exist within CS-B at levels as high as
 8 10,000 parts per million. Do you see that?
 9 A. Yes.
 10 Q. Is that above the ecotox level that you
 11 described in your action memorandum?
 12 A. Yes.
 13 Q. Okay. Is 10,000 parts per million considered
 14 a high number for PCBs?
 15 A. Yes.
 16 Q. Let's go to the next paragraph that begins
 17 surface water samples collected from CS-B. Do you see
 18 that?
 19 A. Yes.
 20 Q. Okay. It says an elevated level of PCBs,
 21 open paren, aroclor, 1260, closed paren, was also
 22 detected in the surface water of CS-B at a level of 44
 23 parts per billion. Do you see that?
 24 A. Yes.
 25 Q. Is that -- is that also above the ecotox

1 level that you referenced in your action memorandum?
 2 A. The table within the action memorandum does
 3 not have PCBs listed under surface waters.
 4 Q. Okay. This is just for sediment?
 5 A. For PCBs, yes.
 6 Q. And the surface water is just for DDT?
 7 A. That was the only one listed.
 8 Q. Do you know what the ecotox level for PCBs in
 9 surface water is?
 10 A. No.
 11 Q. This is a finding here that there are PCBs in
 12 the surface water in CS-B, correct? Does that mean
 13 it's floating? When you take a sample of the water,
 14 it's there?
 15 A. It is under the findings of facts of the --
 16 of the document, and the second part of your question
 17 is is that it could be in the dissolved phase within
 18 the water or the non-dissolved phase. By reading this,
 19 I can't tell which phase it was in.
 20 Q. Okay. You're going to have to explain to me
 21 what you mean by dissolved phase and non-dissolved
 22 phase.
 23 A. Take, for example, sugar. Put sugar into
 24 water. You stir it up, and you'll no longer see the
 25 sugar.

1 Q. Right.
 2 A. It dissolves in the water.
 3 Q. Okay.
 4 A. You take that example and put sand in it.
 5 Put sand in that same cup of water. Stir it up. The
 6 sand floats within the water and eventually runs out.
 7 That's the non-dissolved phase.
 8 Q. If there's any sand still floating in the
 9 water that hasn't settled --
 10 A. That's the non-dissolved phase.
 11 Q. Okay. If it's still floating in the water,
 12 though, it stays in the water column? It's not
 13 dissolved in the water column, but it stays in the
 14 water column?
 15 A. Yes, it can.
 16 Q. All right. Let's go down to Creek Segment C.
 17 Let me back up. Do you know why there was a
 18 distinction in the paragraph that referenced aroclor
 19 1260 as opposed to the first paragraph which is for
 20 PCBs? Is aroclor 1260 a PCB?
 21 A. Aroclor 1260 is one of the aroclors that make
 22 up PCBs.
 23 Q. Okay.
 24 A. So why that distinction -- I do not know why
 25 that distinction.

1 Q. Are there different -- are different aroclors
 2 more toxic than others, if you know?
 3 A. Yes, they are, and yes, I do know.
 4 Q. Can you explain to me which ones?
 5 A. Aroclor -- I do not know the -- all of the
 6 most toxic ones, but aroclor 1260 and aroclor 1254 are
 7 two of the more toxic ones --
 8 Q. All right.
 9 A. -- of the aroclors.
 10 Q. That may have been the reason the aroclor
 11 1260 was noted in the surface water in this paragraph?
 12 A. Possibly.
 13 Q. All right. Let's move down to the next
 14 paragraph. Six lines down, PCBs, open paren, total,
 15 closed paren, were also detected in sediments at CS-C
 16 at a maximum concentration of 27,500 parts per billion.
 17 Do you see that?
 18 A. Yes.
 19 Q. And again, you have here a distinction of the
 20 types of PCBs that were -- that were detected I guess
 21 by the reference to total. Is that how you read that?
 22 A. Yes. You can -- you can refer to PCBs as
 23 totals where you add up all of the aroclors and
 24 literally just do a simple arithmetic and just add them
 25 all up, or you can break them out and take out the most

1 toxic ones and just reference that number.

2 Q. I see. Okay. Is the 27,500 parts per
3 billion number referenced here above the ecotox level
4 for sediment that you have in your action memo?

5 A. Yes, it would. However, the reference in the
6 action memo is in parts per million, and the reference
7 in the order is in parts per billion --

8 Q. Right.

9 A. -- so the conversion would need to be made.

10 Q. And you told me the conversion is for the
11 ecotox level 2.3 parts per billion as converted from
12 0.23 parts per million?

13 A. I believe that's correct.

14 Q. Even if it was 230 parts per billion, that
15 would still be higher in Creek Segment C than the
16 ecotox level; is that correct?

17 A. That's correct.

18 Q. Move down to the paragraph that's four lines
19 down. PCBs, open paren, total, closed paren, were
20 detected in sediments at a maximum concentration of
21 12,000 parts per billion. Do you see that?

22 A. Yes.

23 Q. Okay. Is that -- is that level above the
24 ecotox level that you mentioned in your action memo?

25 A. Yes.

1 creek segments -- too many S words. All of the creek
2 segment sediments exceeded the ecotox levels for PCBs?

3 A. Yes.

4 Q. And just so that I make sure we're clear,
5 ecotox refers to critters in the creek, harmful
6 critters in the creek?

7 A. Yes.

8 Q. All right. Now let's go to page 7 the order.

9 Actually, no. We'll come back to that. Just give me a
10 second. I want to mark my spot so I don't lose my
11 place.

12 Okay. When you were talking to Mr. Edgar
13 earlier, I think you said you became involved in the
14 culvert replacement project sometime in 1999 but you
15 couldn't remember exactly when, and I want to show you
16 some documents that will maybe refresh your recollection
17 as to when you first became involved in the culvert
18 replacement project. Exhibit 4.

19 Okay. This is a February 22nd, 1999 monthly
20 report addressed to Mike McAteer from D.M. Light of
21 Solutia. Take a second to take a look at that document
22 if you would, please. Have you ever seen that document
23 before today?

24 A. No.

25 Q. Fair enough. I want to direct your attention

1 Q. Okay. Let's move on down to Creek Segment E.
2 It's four lines down. It says elevated levels of PCBs,
3 open paren, total, closed paren, were also detected at
4 a maximum concentration of 59,926 parts per billion.
5 Do you see that?

6 A. Yes.

7 Q. Okay. And again, I don't want to belabor the
8 point, but I have to. Is that level above the ecotox
9 level that you mentioned in your action memorandum?

10 A. Yes.

11 Q. And it seems that the levels got a little bit
12 higher there from Creek Segment D to Creek Segment E;
13 isn't that correct?

14 A. Based upon those two numbers, yes.

15 Q. All right. And in the last -- the last one,
16 Creek Segment F, the fifth line down, PCBs, open paren,
17 total, closed paren, were also detected in sediments at
18 a maximum concentration of 5,348 parts per billion. Do
19 you see that?

20 A. Yes.

21 Q. Is that number also above the ecotox level
22 that you have referenced in your action memo?

23 A. I believe so.

24 Q. Okay. So is it fair to say that based on
25 these figures in your -- in the order that all of the

1 to the second page, the very bottom. It says issues
2 under review. Do you see that?

3 A. Yes.

4 Q. Okay. Could you read the -- that -- that
5 paragraph for me?

6 A. Solutia is evaluating a proposal by US EPA to
7 design and install some early, in parentheses,
8 pre-EECA/RIFS study flooding improvement --
9 improvements focused on the undersized or otherwise
10 constricted culverts along Dead Creek. It is
11 contemplated that this work would be conducted under a
12 UAO to be negotiated between US EPA and Solutia.

13 Q. Does this refresh your recollection as to
14 when you first became involved with the culvert
15 replacement project?

16 A. No.

17 Q. Were you involved in January and February of
18 1999, to the best of your recollection?

19 A. I do not recall.

20 Q. You don't recall. Did you know that EPA and
21 Solutia were negotiating the actions that are described
22 in this memo?

23 MS. TORRENT: Object to the form of the
24 question. I believe contemplated is the wording there.
25 Lack of foundation.

1 Q. (By Mr. Hooker) Did you know that EPA and
2 Solutia were contemplating the actions described in this
3 monthly report?

4 A. No.

5 Q. No. Okay. All right. So at that point in
6 time you weren't involved or you don't recall being
7 involved and you didn't know about the contemplation
8 between US EPA and Solutia. Fair enough. We'll go on
9 to the next document and put that one aside. Oops. I
10 covered up my exhibit stickers. No. 5.

11 This is a March 18th, 1999 monthly report from
12 Mike -- D.M. Light, I think it's Michael Light from
13 Solutia to Mr. McAteer again.

14 MR. SEPESI: Todd, what was the date on that?

15 MR. HOOKER: March 18th.

16 Q. (By Mr. Hooker) I want to direct your
17 attention to the same area of the document. Once again,
18 I'm not going to make you read it. It says exactly the
19 same thing, but here we are in March of 1999, and I just
20 want to know if this refreshes your recollection as to
21 whether you were involved at this time with the culvert
22 replacement project.

23 A. It does not refresh my recollection.

24 Q. You just know it was sometime in 1999 you got
25 involved; you don't remember when. Do you remember

1 Q. Now, AOC, that's the first time that's crept
2 in. This is the third or fourth document we've looked
3 at. They've all said the same thing, but now this says
4 UAO or AOC. Do you see that?

5 A. Yes.

6 Q. Were you involved at this point in time with
7 negotiating with Solutia in April of 1999?

8 A. Likely, yes.

9 Q. Okay. That may be because the AOC refreshes
10 your recollection?

11 MS. TORRENT: Objection to the form of the
12 question.

13 You can answer it if you understand.

14 A. No.

15 Q. (By Mr. Hooker) Okay. That's fine. As long
16 as it refreshes your recollection.

17 What's the difference?

18 MS. TORRENT: Objection. Is that a question?

19 Q. (By Mr. Hooker) What's the difference between
20 a UAO or an AOC?

21 A. An AOC is an Administrative Order on Consent,
22 and an UAO is an Unilateral Administrative Order. An
23 AOC is a document that the parties come to voluntarily,
24 and a Unilateral Administrative Order is the agency
25 directing a party to do a particular action.

1 talking to Solutia about the culvert replacement
2 project?

3 A. Yes.

4 Q. Okay. Do you remember speaking to Solutia
5 prior to the issuance of the UAO in June of '99?

6 A. I do not remember specific conversations.
7 However, I am certain that we had them.

8 Q. Okay. Do you recall -- I don't want to ask
9 that question until I have the document. Let me strike
10 that.

11 All right. I'm going to hand you, Mr. Turner,
12 what's been marked as Turner 6. It's an April 19th,
13 1999 monthly report from D.M. Light to Mike McAteer.
14 Have you ever seen this particular document before
15 today? I'm sorry. I'll wait until your counsel's done
16 looking at it. I want to direct your attention to the
17 issues under review. In the first sentence, it's
18 exactly the same as the first few documents I showed
19 you. Do you see that?

20 A. Yes.

21 Q. Okay. Would you read the second sentence for
22 me beginning it is contemplated?

23 A. It is contemplated that this work would be
24 conducted under a UAO or AOC to be negotiated between
25 US EPA and Solutia.

1 Q. Okay. From a PRP's perspective, is one more
2 preferable than the other?

3 MS. TORRENT: Objection to the form of the
4 question. It calls for speculation as to a PRP's
5 perspective.

6 Q. (By Mr. Hooker) You can answer if you know.

7 A. I don't know.

8 Q. Well, based on your experience at EPA.

9 A. Some PRPs like AOCs. Some PRPs like UAOs.

10 Q. Is there -- is there a particular benefit
11 that a PRP gets under a UAO that it doesn't get under
12 an AOC?

13 MS. TORRENT: Objection to the form of the
14 question to the extent it calls for speculation.

15 You may answer the question.

16 A. Could you say the question again?

17 Q. (By Mr. Hooker) Is there a particular benefit
18 that a PRP might get under a UAO that a PRP wouldn't
19 receive under an AOC?

20 A. I don't know the particulars of that. Having
21 never been a PRP, I -- I don't know.

22 Q. Okay. Is there something in the regulations
23 or the law, the statutes that provide a particular
24 benefit that you're aware of?

25 MS. TORRENT: Objection to the form of the

1 question for the same previous basis and also to the
 2 extent you're using the term benefit.
 3 A. I don't know.
 4 Q. (By Mr. Hooker) Okay. What if we don't use
 5 the word benefit? Is there something that the PRP gets
 6 under a UAO that it doesn't get under an AOC?
 7 MS. TORRENT: Objection to the form of the
 8 question.
 9 You may answer the question.
 10 A. I -- I don't know that.
 11 Q. (By Mr. Hooker) Okay. So we -- we know that
 12 Solutia and the EPA were talking about this culvert
 13 replacement project in January to April, and you think
 14 you may have gotten involved in April, about four
 15 months, right?
 16 A. Yes.
 17 Q. Okay. This is a May 1999 monthly report once
 18 again from D.M. Light to Mr. McAteer. I've marked it
 19 as Turner Exhibit 7. Mr. Turner, while your attorney's
 20 looking at that, any time you want to take a break,
 21 just let me know.
 22 MS. TORRENT: Does that apply to Roger, too?
 23 MR. HOOKER: Roger has to suffer through. If
 24 you need to take a break, Roger, let me know.
 25 (There was a discussion off the record.)

1 Let the record reflect that Mr. Edgar made an
 2 admission that he's a grandfather.
 3 Q. (By Mr. Hooker) Have you ever seen this
 4 particular document before today?
 5 A. No.
 6 Q. Okay. I want to direct your attention to the
 7 issues under review section. Could you read that, the
 8 Dead Creek flooding portion of that?
 9 A. Field study was initiated to evaluate the
 10 possibility of short-term flooding improvements on Dead
 11 Creek. The study has focused on the undersized or
 12 otherwise constricted culverts along Dead Creek.
 13 Initial results of the investigation is expected in
 14 June.
 15 Q. Were you aware that the study was being
 16 undertaken?
 17 A. Yes.
 18 MS. TORRENT: Objection to the form of the
 19 question to the extent it says field study. You may
 20 just want to go ahead and ask him or clarify that.
 21 MR. HOOKER: We'll get through that.
 22 MS. TORRENT: Okay.
 23 Q. (By Mr. Hooker) So you're aware that the
 24 study that's referenced here was ongoing; is that
 25 correct?

1 A. Yes.
 2 Q. Okay. Was the field study conducted at the
 3 request of EPA?
 4 A. No.
 5 Q. This is something that Solutia undertook on
 6 its own?
 7 A. Yes.
 8 Q. Do you know why Solutia undertook the study?
 9 MS. TORRENT: Objection to the form of the
 10 question, calls for speculation.
 11 You may answer the question.
 12 Q. (By Mr. Hooker) I don't want you to
 13 speculate, but if you know, please tell me.
 14 A. They undertook the study because they knew
 15 that we were going to -- we were getting ready to do
 16 this culvert. This culvert was an issue, and they
 17 wanted to show us the effects of replacing the
 18 culverts.
 19 Q. Okay. Had any studies been conducted on the
 20 culverts prior to the -- to the issuance of the order
 21 that you're aware of?
 22 A. Yes.
 23 Q. Okay. Who conducted those studies?
 24 A. Corps of Engineers St. Louis.
 25 Q. Was that part of the Administrative Record?

1 A. No.
 2 MS. TORRENT: Object to the form of the
 3 question. You're assuming it should be made part of the
 4 Administrative Record.
 5 MR. HOOKER: I'm just asking the question,
 6 Miss Torrent.
 7 MS. TORRENT: I'm objecting to the form.
 8 You may ask or answer the question.
 9 MR. HOOKER: He already did.
 10 Q. (By Mr. Hooker) Is the answer the same?
 11 A. The answer is no.
 12 Q. Okay. Did the agency rely on that Corps of
 13 Engineers study as a factual basis for issuing the
 14 order in June of 1999?
 15 A. No. I did not become aware of that study
 16 until well after the culvert replacement project began.
 17 Q. Oh, okay. So do you know when the study was
 18 conducted by the Corps of Engineers?
 19 A. '40s, '50s; 1940s, 1950s.
 20 Q. Okay. So --
 21 A. The '60s, maybe.
 22 Q. So other than that Corps of Engineers study,
 23 there were no other studies that you're aware of about
 24 the culverts on Dead Creek prior to issuing the order;
 25 is that correct?

1 A. That is correct.
 2 Q. Okay. All right, Mr. Turner. This is a
 3 June 21st, 1999 monthly report once again from
 4 Mr. Light to Mr. McAteer, and I'll hand that to you.
 5 MR. GREENBERG: That's No. 8, right?
 6 MR. HOOKER: Excuse me?
 7 MR. GREENBERG: It's No. 8?
 8 MR. HOOKER: Yes. No. 8.
 9 Q. (By Mr. Hooker) Take a look at that document.
 10 Have you ever seen that document before today?
 11 A. No.
 12 Q. You've never seen that document before today?
 13 A. No.
 14 Q. When did you become the On-Scene Coordinator
 15 for the Dead Creek culvert project?
 16 A. Probably would have been in this time frame
 17 of May or -- April, May, June of 1999.
 18 Q. Okay. Your action memo is dated June 9th; is
 19 that correct, '99?
 20 A. That's correct.
 21 Q. Okay. This -- this document's dated
 22 June 21st, 1999. You've never seen it before today?
 23 A. No.
 24 Q. Okay. Did you ever speak to Mike McAteer
 25 about the culvert replacement project?

1 A. Yes.
 2 Q. Did Mr. McAteer share this information with
 3 you that he received from Solutia?
 4 A. What information is that?
 5 Q. The information that's been contained in
 6 these documents that we've been -- that we've been
 7 reviewing for the last half hour.
 8 A. Yes.
 9 Q. Okay. So even though you've never seen the
 10 documents themselves, you're aware of the information
 11 that's contained in the documents; is that correct?
 12 MS. TORRENT: Hang on. Do you guys want to
 13 see this?
 14 MS. WUNDERLICH: Yeah, please.
 15 MS. TORRENT: Can we wait until he's completed
 16 the questioning?
 17 MR. SEPESI: Sure.
 18 A. Could you state the question again?
 19 Q. (By Mr. Hooker) I don't know if I can.
 20 MR. HOOKER: Can you read that back?
 21 (The preceding question was read back as
 22 requested.)
 23 A. Yes.
 24 Q. (By Mr. Hooker) Okay. Now to Turner No. 8.
 25 If you'll go to the bottom part of that second page,

1 once again, under the issues under review section, the
 2 second sentence or third sentence says preliminary
 3 results -- actually, why don't you just read that whole
 4 paragraph for me. It might be easier.
 5 A. Field work was completed to evaluate the
 6 possibility of short-term flooding improvements on Dead
 7 Creek. The study focused on the undersized or
 8 otherwise constricted culverts along Dead Creek.
 9 Preliminary results indicate that elimination of the
 10 restricted culverts will not appreciably affect the
 11 flooding conditions. A final report will be issued by
 12 the end of June.
 13 Q. Were these preliminary results relayed to
 14 you?
 15 A. I don't recall.
 16 Q. You don't recall. Do you know whether -- you
 17 don't recall whether they were relayed to you before
 18 you issued the order, after the order? You don't
 19 recall -- you don't recall whether you received them at
 20 all?
 21 MS. TORRENT: Objection to the form of the
 22 question.
 23 You can answer the question.
 24 A. Preliminary results are -- are the key words
 25 there, and I don't recall if they were preliminary or

1 actual.
 2 Q. (By Mr. Hooker) Okay. You recall getting
 3 information from Solutia, but you don't know if it was
 4 preliminary or a final report; is that what you're
 5 telling me?
 6 A. Yes.
 7 Q. Okay. Do you recall getting information from
 8 Solutia in June of '99 about the field study they were
 9 conducting?
 10 A. I recall getting information. I do not
 11 recall the date.
 12 Q. Okay. Fair enough. It's been a couple
 13 years. I understand.
 14 All right. We're going to do one more monthly
 15 report, and then we'll take a break from the monthly
 16 reports for a while.
 17 Mr. Turner, I'm going to hand you the next
 18 document that's dated July 15th, 1999. It's a monthly
 19 report from D.M. Light of Solutia to Mr. McAteer. Have
 20 you ever seen this document before today, Mr. Turner?
 21 A. No.
 22 Q. Okay. Let's go to the section on page 2 once
 23 again, issues under review, and let's go to the second
 24 bullet point. It basically says that EPA issued a UAO
 25 for culvert replacement projects; is that correct? Is

1 that an accurate summary of the first sentence?

2 A. Yes.

3 Q. And then the second sentence says the UAO
4 requires replacement of the culverts on Dead Creek to
5 address flooding of Dead Creek. Is that an accurate
6 statement?

7 A. Yes.

8 Q. So we're up to the point now where we know
9 that from about January to July, EPA and Solutia have
10 been discussing alternatives, or Miss Torrent likes the
11 word contemplating whether or not a culvert replacement
12 project would be appropriate. Solutia's conducting
13 some studies, EPA's preparing an action memorandum, and
14 you issued the order. Is that an accurate statement?

15 MS. TORRENT: Objection to the form of the
16 question insofar as it's an improper summation of the
17 facts.

18 You may answer the question.

19 Q. (By Mr. Hooker) If I got something wrong, let
20 me know.

21 A. Yes. That's -- that's accurate enough. I
22 mean, there's a lot more to it than that.

23 Q. Is there something that I left out that you
24 can fill in for me?

25 A. No.

1 Q. All right. Let's go back to the order, if we
2 could, for just a few -- a few seconds, a few minutes,
3 maybe.

4 MS. TORRENT: Turner No. 3?

5 MR. HOOKER: Yes, 3.

6 Q. (By Mr. Hooker) Now, if we could go to page 8
7 of the order. Okay. So now the order is issued, and
8 we're on page No. 8, paragraph 3, work to be performed.
9 What does this paragraph require Solutia to do?

10 A. Well, it's broken into two sections, A and B.

11 Q. Okay.

12 A. And under A it says that they are to -- to
13 produce a work plan for replacing culverts along Dead
14 Creek.

15 Q. Okay.

16 A. It gives some -- some stipulations, precast
17 concrete, must be able to convey water from one creek
18 segment to the next, removal and replacement shall be
19 done in a manner that minimizes disturbance of
20 sediments, so it gives some parameters for that. It
21 doesn't say that every one of them needs to be removed.
22 It gives some other parameters along the hundred-year
23 flood elevations. They've got to do it according to
24 Department of Transportation requirements for weight
25 bearing.

1 Q. What do you mean by there's a lot more to it?

2 A. That's pretty simplistic.

3 Q. I'm not trying to put words in your mouth.
4 If I left something out or didn't state it right, let
5 me know because I don't want to do that. So are you
6 telling me my overview I gave you is pretty accurate?

7 A. Why don't you state it again?

8 Q. Actually, no. Why don't you describe it to
9 me? Do it that way.

10 A. We had Dead Creek -- or I mean, Solutia was
11 doing some -- some studies as this indicates. We were
12 contemplating a variety of culvert replacement type
13 actions, or I shouldn't say culvert replacement. It
14 was culvert-type actions, and these things were -- were
15 occurring simultaneously. According to this, they
16 issued this thing on July 15th, and according to this,
17 we issued a UAO on June 28th.

18 Q. Okay. So when you say according to this,
19 you're referring to the monthly report. That monthly
20 report was authored or sent on July 15th, and the UAO
21 was received by Solutia on June 28th?

22 A. The Dead Creek flooding hydraulic study was
23 issued on July 15th.

24 Q. Oh, okay.

25 A. The UAO was received by Solutia on June 28th.

1 Q. All right. Let me stop you there. Let me
2 make sure I understand. What you're telling me is they
3 had to prepare a time critical removal action work plan
4 with certain requirements that are laid out here in the
5 order you've mentioned?

6 A. That is correct.

7 Q. Okay. That's A. What's -- what's B?

8 A. B is if sediments, contaminated sediments as
9 it says or creek water, pumping of creek water, these
10 media must be disposed of accordingly.

11 Q. Okay. And according to -- at RCRA and TSCA
12 facilities and according to the CERCLA rules, correct?

13 A. Correct.

14 Q. Did Solutia prepare a time critical removal
15 action work plan for this order?

16 A. To the best of my recollection, yes.

17 Q. Okay. When was that time critical removal
18 action work plan complete, do you know?

19 A. I do not remember.

20 Q. Is that -- I haven't seen the time critical
21 removal action work plan. Is that part of the
22 administrative work record?

23 MS. TORRENT: Objection to the form of the
24 question.

25 You may answer to the extent you can.

1 A. Yes. However, the Administrative Record has
 2 not been updated.
 3 Q. (By Mr. Hooker) Okay. Do you know -- I mean,
 4 this order was issued in 1999. How long does it
 5 normally take for time critical removal action work
 6 plans to get in there?
 7 A. For the work plan to be completed?
 8 Q. Yeah.
 9 A. That would be stipulated in the schedule.
 10 Q. Okay. So you said you recall that a time
 11 critical removal action work plan was completed for
 12 this particular order; is that correct?
 13 A. I believe I recall that, yes.
 14 Q. All right. So do you recall when that was
 15 completed?
 16 A. No. I do not recall when it was completed.
 17 However, our typical scenarios are that work cannot
 18 begin until there is a work plan in place.
 19 Q. So when did work begin on the culvert
 20 replacement project?
 21 A. It would have been in the summer, fall of
 22 '99. I don't remember exactly.
 23 Q. Okay. So the work plan would have been
 24 completed sometime in 1999?
 25 A. It should have been. I -- I don't remember

1 my dates.
 2 Q. Okay. And you're telling me that the
 3 Administrative Record isn't updated any more often than
 4 every three years?
 5 A. It's possible.
 6 MS. TORRENT: Objection to the form of the
 7 question. It calls for speculation.
 8 You may answer if you can.
 9 A. Possibly.
 10 Q. (By Mr. Hooker) Let's go on to page -- page
 11 9. We're already there, actually. There were a couple
 12 of other requirements in the order to do a health and
 13 safety plan, a quality assurance and sampling plan.
 14 Were those plans completed by Solutia?
 15 A. I do not recall.
 16 Q. Let's go back to page 7 of the order. Do you
 17 see the paragraph that says No. 1, notice of intent to
 18 comply?
 19 A. Yes.
 20 Q. Would you read that first sentence for me?
 21 A. Respondents shall notify EPA in writing
 22 within three, numeral three, business days after the
 23 effective date of this Order of Responsive --
 24 Respondent's irrevocable intent to comply with this
 25 order.

1 Q. So that's a written document that respondent
 2 is supposed to send the EPA; is that correct?
 3 A. Yes.
 4 Q. Does that document become part of the
 5 Administrative Record also?
 6 A. Not necessarily.
 7 Q. And why not?
 8 A. The -- the documents that get put into the
 9 Administrative Record are decided by the -- the group,
 10 the team --
 11 Q. Okay.
 12 A. -- such as I indicated earlier, and if that
 13 particular document was not deemed to be necessary for
 14 the Administrative Record for whatever reason as the
 15 team might decide, then it wouldn't be put in there.
 16 Q. Do you know whether Solutia responded to the
 17 EPA in writing?
 18 A. I believe they did.
 19 Q. Okay. Let's go back to Turner --
 20 MR. HOOKER: Is it 8 or 9, the last monthly
 21 report we had?
 22 MS. TORRENT: 9 is the last one.
 23 MR. HOOKER: 9.
 24 Q. (By Mr. Hooker) Let's go back to 9. If you
 25 go to the last sentence at the very bottom there,

1 Mr. Turner, can you read that for me? It begins an
 2 alternative.
 3 A. An alternative proposal to address the cause
 4 of the flooding and the contaminated sediments directly
 5 was made to US EPA by Solutia on July 15th at a
 6 conference in Cahokia.
 7 Q. Were you involved in that conference?
 8 A. Yes.
 9 Q. Okay. That sounds like it was a meeting in
 10 person. Was that a meeting in person?
 11 A. Yes.
 12 Q. Was there a written submission prior to this
 13 meeting in person?
 14 MS. TORRENT: Objection to the form as to
 15 written submission.
 16 Q. (By Mr. Hooker) Well, pursuant to the order
 17 that we just read a few minutes ago, respondent is
 18 required to submit a written response to US EPA within
 19 three business days. We know that -- we know from this
 20 monthly report that there was a conference between EPA
 21 and Solutia on July 15th in Cahokia. My question is was
 22 Solutia to submit something in writing prior to the
 23 in-person meeting on July 15th?
 24 A. I don't recall.
 25 Q. Didn't you just tell me you think they did

1 submit something in writing?
 2 A. I did, but I don't recall whether or not it
 3 was prior to this date or not.
 4 Q. Okay. That's fine. Thank you very much for
 5 clarifying that.
 6 All right. So it says here there was an
 7 alternative proposal made by Solutia at this conference
 8 in Cahokia. That would be an alternative proposal to
 9 the -- to the order that was just issued?
 10 A. That proposal addressed more than just the
 11 culverts.
 12 Q. Oh. Would you elaborate for me, Mr. Turner?
 13 Let's back up for a second. Let me just clarify
 14 something. The proposal we're discussing was in
 15 response to the June '99 UAO; is that correct?
 16 A. Yes. I believe so.
 17 Q. Okay. Go ahead with what you were going to
 18 tell me.
 19 A. During that conference, proposals were made
 20 to deal with the -- the -- the greater issue of the
 21 sediments rather than just dealing with the culverts.
 22 Q. Okay. The proposal was made by who?
 23 A. Solutia.
 24 Q. So at this conference in July, Solutia
 25 proposed a greater plan for dealing with the sediments

1 A. The Cahokia plan had some -- a variety of
 2 options --
 3 Q. Okay.
 4 A. -- for the sediments themselves.
 5 Q. Was one of those options a containment
 6 cell --
 7 A. Yes.
 8 Q. -- to be built next to Creek Segment B?
 9 A. Not that detailed.
 10 Q. Okay. Did the plan include short-term and
 11 long-term goals?
 12 MS. TORRENT: Objection to the form of the
 13 question as to short-term versus long-term.
 14 Q. (By Mr. Hooker) If you can answer it, go
 15 ahead.
 16 A. I don't recall.
 17 MR. SEPESI: Todd, are we getting near a good
 18 time to break for lunch?
 19 MR. HOOKER: I lost track of time. Let's ask
 20 Mr. Turner. Do you want to break for lunch now or maybe
 21 go another half hour? It's up to you.
 22 THE WITNESS: No lunch.
 23 MR. HOOKER: No lunch?
 24 MS. TORRENT: Let's go off the record, please.
 25 MR. HOOKER: Before we break and go off the

1 and the culverts or the sediments as opposed to the
 2 culverts? Can you give me some more information?
 3 A. The sediments and the culverts.
 4 Q. Okay. Did that proposal have a name?
 5 A. Yes. I think it did.
 6 Q. Do you recall the name?
 7 A. I think it was called the Cahokia plan.
 8 Q. The Cahokia plan?
 9 A. I think.
 10 Q. Okay. After the meeting in person, were
 11 there any written submissions made to you by Solutia
 12 regarding the Cahokia plan?
 13 A. I don't recall.
 14 Q. You don't recall. Okay. Could you -- so now
 15 that we have a name for the alternative proposal, the
 16 Cahokia plan, could you describe how the plan was laid
 17 out?
 18 A. Not with much detail, I can't --
 19 Q. Okay.
 20 A. -- because I don't remember off the top of my
 21 head, but it dealt with the contamination and the
 22 various settlements -- segments and how to deal with
 23 those and the culverts.
 24 Q. Okay. Did the Cahokia plan discuss the idea
 25 of a containment cell?

1 record, Mr. Turner, I know you've never had your
 2 deposition taken before. At least that's what you
 3 indicated earlier. Just so you know, when we take these
 4 breaks, you can't discuss with your counsel the
 5 substance of your testimony that you've given today
 6 because it's not allowed, so I just want to make sure
 7 you understand that instruction before we break for
 8 lunch.
 9 MS. TORRENT: I'll object to the speech that
 10 Mr. Hooker just gave as improper. Off the record.
 11 (There was a discussion off the record, and a
 12 lunch break was taken.)
 13 MS. TAPE: To the extent, Todd, that you're going
 14 to ask questions of Mr. Turner that involve confidential
 15 settlement negotiations between Solutia and the
 16 government, we're going to object to those.
 17 MR. HOOKER: Okay.
 18 MS. TAPE: If there's a problem with that,
 19 we're going to call the judge. We'll see. You were
 20 getting close to that when we ended up, and we'll see
 21 how it goes and where it goes, but Joe is ready so if we
 22 need to call the judge --
 23 MR. HOOKER: You're referring to Joe Nassif?
 24 MS. TAPE: I'm referring to Joe Nassif.
 25 MR. HOOKER: I disagree with your objection.

1 I think I wasn't anywhere near negotiations. I think we
2 were talking about a response to a unilateral order, but
3 if that's what you're calling settlement negotiations --

4 MS. TAPE: Those are settlement negotiations
5 concerning that UAO, and my response to the government
6 and how we work those issues out are confidential
7 settlement negotiations.

8 MR. HOOKER: I understand your position. I
9 disagree with it, but I understand your position. Are
10 we ready? All right.

11 Q. (By Mr. Hooker) When we broke for lunch, we
12 were talking about the Cahokia plan. I want to just
13 back up a step or two back to the June of '99 unilateral
14 order that was intend to address the Dead Creek
15 flooding. Do you know when the last time Dead Creek
16 flooded was?

17 A. No.

18 Q. Is it your understanding that that happened
19 periodically? Strike that.

20 How severe was the flooding problem in Dead
21 Creek, if you know?

22 A. I don't know.

23 Q. You don't know. Okay. Is there some place I
24 could find information about the flooding problem at
25 Dead Creek that led EPA to decide that it merited a

1 was made to US EPA by Solutia July 8th at a conference
2 in Cahokia. This proposal was formally submitted to US
3 EPA in Solutia's July 17th, 1999 response to the UAO.
4 As committed to in the July 8th Cahokia conference and
5 repeated in Solutia's July 17th, 1999 response, Solutia
6 submitted to US EPA in a July 30th correspondence
7 commitment to implement some additional short-term
8 plans to address the flooding and the sediments under
9 the UAO. The proposals made in both the July 17th and
10 July 30th correspondence remain under review by the
11 agencies.

12 Q. Okay. Well, let's -- let me first ask you.

13 It says here there was a July 8th conference in
14 Cahokia. If we go back to the prior document, I
15 believe it's Turner 9, it references a July 15th
16 conference. Does that mean that there were two
17 separate conferences held?

18 A. I do not recall.

19 Q. You don't recall whether there were two
20 conferences, but you know you recall meeting with
21 Solutia. Is that the case?

22 A. Yes.

23 Q. Then it says that there was -- in response to
24 the June UAO, there was a proposal that was formally
25 submitted on July 17th, '99. Is that -- is that what

1 time critical removal action?

2 A. I cannot point to a specific source to refer
3 you to.

4 Q. All right. Let's get back to the Cahokia
5 plan, then. Okay. Mr. Turner, I'm handing you a
6 document that I've marked as -- dated August 18, 1999
7 from D.M. Light to Mike McAteer. Once again, it's a
8 monthly report, and I've marked it as Turner Exhibit
9 10. All right. I want to direct your attention to the
10 portion of the document that's entitled issues under
11 review. If you could go to the second bullet point,
12 down to the third sentence and alternative. Let me ask
13 you first, though. Do you remember I asked you before
14 the break whether there were short-term and long term
15 goals discussed in the Cahokia plan and you said you
16 didn't remember?

17 A. Yes.

18 Q. What I'd like you to do is just take a minute
19 and read to yourself -- you don't have to read it into
20 the record -- the sentence that begins with an
21 alternative proposal to the end of the paragraph. Read
22 that to yourself, if you could. Actually, you know
23 what? Read it into the record.

24 A. An alternative proposal to address the cause
25 of the flooding and the contaminated sediments directly

1 that says?

2 A. Yes.

3 Q. Okay. Do you recall receiving that written
4 response?

5 A. I do not recall receiving it. However, I am
6 sure I have it.

7 Q. And it says here in the document that's
8 authored by Solutia that that submittal was made in
9 response to the UAO which is the June 1999 UAO; is that
10 correct?

11 A. Yes.

12 Q. Was there any other UAO at that time?

13 A. No.

14 Q. Was there any other UAO between Solutia and
15 EPA Region V regarding Dead Creek at that time?

16 A. Not to my knowledge.

17 Q. Okay. Then it goes on to reference a
18 July 30th correspondence. Do you recall that
19 correspondence?

20 A. Not specifically.

21 Q. You believe that you'd still have that
22 correspondence if it was, in fact, submitted to you?

23 A. Yes. I believe I would.

24 Q. Now we get to the part of the sentence that
25 says commitment to implement some additional short-term

1 plans. Maybe my use of the -- of the term goals was --
2 was wrong. Do you recall what the short-term plans --
3 strike that.

4 Do you recall now whether short-term plans
5 were addressed as part of the Cahokia plan?

6 A. I don't recall short-term versus long-term.
7 I just recall that there was some additional proposals
8 made to deal with the flooding as well as the sediments
9 themselves. I can't characterize them at this point
10 without looking at it again as to whether it's
11 short-term or -- or some other characterization.

12 Q. Okay. Mr. Turner, I have a document that --
13 it's dated October 8th, 1999. It's from Mr. D.M. Light
14 to Mr. McAteer, and I've marked it for identification
15 as Turner Exhibit 11. Please take a look at it. I'd
16 like to direct your attention to the issues under
17 review portion of this document. Have you ever seen
18 this document before today?

19 A. No.

20 Q. Okay. I'd like to direct your attention to
21 the issues under review section of the document, and
22 could you take a moment to review that section? I
23 think it's two paragraphs, two bullet points. Are you
24 ready?

25 A. Yes.

1 the water from Sector B was pumped to Creek Segment E.

2 A. That is correct.

3 Q. So was this -- help me understand why there
4 was a proposal to pump the water to American Bottoms.

5 A. At the time there was many proposals out
6 there as to what to do with the water, and this was one
7 of the proposals out there. We were just looking at
8 the viability of that particular option.

9 Q. Is that because the order -- if we go back to
10 the -- let's go back to the order. I believe that's 3.
11 If we go to page 9, Section B, it says if the culvert
12 replacement project involves the excavation of
13 contaminated sediments or the pumping of creek water,
14 these media must be properly disposed of at a RCRA/TSCA
15 or CERCLA approved facility in accordance with the EPA
16 offsite rule. Does that make sense, then, as to why
17 the American Bottoms plan was being looked at?

18 A. That's correct.

19 Q. Okay. After the word American Bottoms
20 Treatment Plant -- the term, I should say, there's a
21 semicolon and it goes on to read, quote, and agreed
22 conceptually and requested additional discussions and
23 information on the proposal to remove contaminated
24 sediments from Sector B and contain in an onsite double
25 lined containment cell. So that letter of

1 Q. Okay. If you go down to the second bullet
2 point, around the middle of the paragraph it says the
3 agency responded to Solutia's proposals in a
4 September 24th, 1999 letter received September 28th,
5 1999. Was that letter from you? I mean, strike that.

6 Did you write a letter dated September 24th,
7 1999 directed to Solutia regarding the -- the culvert
8 project proposal?

9 A. I don't remember.

10 Q. You don't remember whether you did or you
11 didn't?

12 A. I don't remember if it was from me or if it
13 was from somebody else.

14 Q. Are you aware that such correspondence
15 exists?

16 A. I believe that this statement is correct.

17 Q. Okay. It goes on to say in summary, the
18 agencies. Who are the agencies?

19 A. US EPA and Illinois EPA.

20 Q. Okay. So the two -- okay. In summary, the
21 agencies approved replacements of the culverts at
22 Cargill Road and the Terminal Railway ROW, requested a
23 work plan for the proposed installation of facilities
24 to pump water from Sector B to the American Bottoms
25 Treatment Plant. I thought you told us earlier that

1 September '99 addressed the idea of a containment cell;
2 is that correct?

3 A. Correct.

4 Q. Okay. Could you -- there's a last section
5 called comments. There's a bullet point there. Could
6 you read that for me, please?

7 A. Solutia has requested a meeting with Region V
8 TSCA personnel for the purpose of discussing the
9 technical requirements for the double lined containment
10 cell for the Sector B sediments. Within parentheses it
11 says see UAO discussion above.

12 Q. What's TSCA?

13 A. Toxic Substance Control Act.

14 Q. Okay.

15 A. That's what the acronym stands for.

16 Q. Is there a specific chemical or something
17 that's governed under TSCA?

18 A. Yes, and it's -- I am not a TSCA expert.

19 Q. Okay.

20 A. PCBs are one of the chemicals that are
21 regulated under TSCA. I don't know whether or not
22 additional chemicals are regulated or not.

23 Q. But you know that PCBs are specifically
24 regulated under TSCA?

25 A. Yes.

1 Q. Okay. Do you know why -- strike that.
 2 Were you involved with this Region V meeting
 3 with the TSCA personnel?
 4 A. Yes, I was.
 5 Q. You were present at the meeting?
 6 A. I don't remember if it was a face-to-face
 7 meeting or if we did it via phone conference --
 8 Q. Okay.
 9 A. -- but I was involved with that meeting.
 10 Q. Okay. What technical requirements were
 11 discussed at that meeting?
 12 A. A TSCA containment cell has many requirements
 13 in order to -- to meet the minimum technology. The
 14 specifics of that I -- you know, I couldn't pull off of
 15 the top of my head. I could just tell you what a
 16 typical TSCA cell involves, and that involves multiple
 17 layered liners, synthetic liners and clay and sighting
 18 requirements and the construction of -- of the various
 19 aspects of the -- of the containment cell. That's what
 20 that meeting would have entailed as to -- to determine
 21 what -- what are those requirements.
 22 Q. You said sighting requirements. Is that
 23 where the cell is placed? Are those sight requirements
 24 generally? Can you tell me what those are?
 25 A. I am not an expert in sighting requirements

1 any more so than I am an expert in TSCA. I know that
 2 there are some, oh, minimum distances to groundwater.
 3 They like to see the subsurface geology, distances
 4 within various flood plains --
 5 Q. All right.
 6 A. -- things of that nature.
 7 Q. When you say the site geology, does that mean
 8 like for compaction, or is it -- what's that relate to,
 9 do you know?
 10 A. It relates to not only figuring out what the
 11 geology below the proposed site is but to do some
 12 various testing on the soil, and I think there's a
 13 proctor test and there's various compaction tests that
 14 are -- that are performed on the -- on the subsurface
 15 soils, but just figuring out the geology, you know,
 16 that's -- that's simple. It's just sand, clay, silt --
 17 Q. Okay.
 18 A. -- things of that nature.
 19 Q. You mentioned flood plains. Can you describe
 20 a little bit more of that for me?
 21 A. I don't know off the -- the specifics for
 22 TSCA, but you need to be a minimum distance from a --
 23 from a hundred-year flood, I believe it is. I'm not
 24 even quite sure. It might be a 25-year flood, but
 25 there's minimum distances that you need to be from a

1 river such as the Mississippi River.
 2 Q. Okay. Have you told me before whether the
 3 cell was ultimately built?
 4 A. Yes.
 5 Q. Where is that?
 6 A. Right next to Segment B on the west side.
 7 Q. Right next to Segment B. Is the cell within
 8 the Dead Creek flood plain?
 9 A. I don't know.
 10 Q. Okay. I'm just a little -- you've confused
 11 me now because you told me that the UAO in '99 was
 12 issued because of flooding of Dead Creek, and you're
 13 worried about the sediments and everything getting out
 14 of there that way, but you build a containment cell
 15 right next to the creek that floods that you issued the
 16 UAO for. Can you clarify that for me a little bit?
 17 MS. TORRENT: Objection to the form of the
 18 question.
 19 You can answer if you understand the question
 20 that is pending before you.
 21 A. The -- there -- there's various ways of
 22 looking at a flood plain, and if you've got a -- a
 23 house that is right next to the creek and their
 24 basement floods on a regular basis, then that means one
 25 thing to us. When you build a -- a containment cell

1 and you are physically located within the flood plain
 2 of a creek such as Dead Creek which I don't know what
 3 the -- the distances would be there, then that means
 4 something else, and you can take engineering controls
 5 in order to control the flooding of Dead Creek.
 6 In addition, Segment B which is the uppermost
 7 segment floods a lot different than Segment E or Segment
 8 C which are downstream, so the sheer volume of the water
 9 coming into B is going to be a lot different than
 10 downstream.
 11 Q. Was land along those other segments you just
 12 mentioned, E and D, I think, considered for the
 13 containment cell?
 14 A. I don't know the answer to that.
 15 Q. Isn't it true that the site that the cell was
 16 built on is the only site that was considered for the
 17 containment cell? That's true, isn't it?
 18 MS. TORRENT: Objection to the form of the
 19 question as leading.
 20 MR. HOOKER: Counsel, I'm entitled to ask
 21 leading questions of an adverse witness.
 22 MS. TORRENT: That's my objection.
 23 A. I don't know the answer to that one.
 24 Q. (By Mr. Hooker) All right. Let's see. I'm
 25 done with that one for now. Okay, Mr. Turner. Now that

1 I've had to move, I'm all flummoxed.
 2 This next document I've marked for
 3 identification as Turner 12 is yet another monthly
 4 report dated November 10th, 1999 from D.M. Light to
 5 Mr. Michael McAteer. Take a moment to take a gander at
 6 that one. In particular, the -- the first two issues in
 7 particular under the issues under review section --
 8 MR. HOOKER: I'll wait until he gets the
 9 document anyway.
 10 MR. SEPESI: Todd, could you speak up a little
 11 bit?
 12 MR. HOOKER: I'll do my best, Jeff.
 13 MR. SEPESI: We don't want to miss a word.
 14 MR. HOOKER: You're going to wear me out.
 15 Q. (By Mr. Hooker) Mr. Turner, now that you have
 16 the document in your hand, I want to direct your
 17 attention to the section under the issues under review
 18 on page 4 that begins this report period.
 19 MR. HOOKER: Can he have the document?
 20 MS. TORRENT: Yeah. He can have it as soon as
 21 you ask your question.
 22 MR. HOOKER: I'd like him to look at it while
 23 I'm asking the question.
 24 MS. TORRENT: I'd like to hear your question.
 25 MR. HOOKER: Thank you. It just makes it

1 easier if the witness has the document in front of him
 2 as opposed to you.
 3 Q. (By Mr. Hooker) Could you just read that
 4 first sentence for me, Mr. Turner, into the record,
 5 please?
 6 A. Solutia met with US EPA representatives in
 7 Chicago on October 19th, 1999 to discuss the potential
 8 acceptability of and some design parameters for a
 9 double lined containment cell to contain the sediments
 10 from Sector B onsite.
 11 Q. That's it. That's it right there. Now, I
 12 want to make sure I understand. This is the same
 13 containment cell that we've been talking about since we
 14 first heard of the Cahokia plan back in July of '99; is
 15 that correct?
 16 A. Yes.
 17 Q. Okay. If you could skip down to the next
 18 sentence that begins with following and read that one
 19 for me, please.
 20 A. I'm sorry. Oh. Following. Following the
 21 meeting and consistent with the discussions in the
 22 October 19 meeting, Solutia committed in an
 23 October 26th, 1999 correspondence to US EPA to one, a
 24 November 8th date for submittal of an evaluation of
 25 alternatives to an on-site containment cell for dealing

1 with the contaminated sediments, and two, a December 3
 2 date for submittal of an on-site containment cell
 3 design.
 4 Q. Okay. Were you involved in the October 19th
 5 meeting?
 6 A. According to this, the attendees for the
 7 agency are -- are listed, and I was not -- I'm not
 8 listed.
 9 Q. Do you recall being at the meeting, though,
 10 notwithstanding the fact that this document says you
 11 weren't there?
 12 A. No. I did not go up to Chicago for a
 13 meeting.
 14 Q. Was the information that you just relayed to
 15 us in this memo also relayed to you by Mike McAteer?
 16 A. I would have heard of the results of this
 17 meeting.
 18 Q. Okay. As the On-Scene Coordinator for the
 19 Dead Creek project, right?
 20 A. Correct.
 21 Q. Now, it mentions here an October 26th, 1999
 22 correspondence. Did you -- do you recall receiving
 23 that correspondence?
 24 A. Not specifically.
 25 Q. Okay. Do you have any reason to believe that

1 you didn't receive a copy of the correspondence?
 2 MS. TORRENT: Object to the form of the
 3 question. He's not stated whether or not he would have
 4 received the correspondence.
 5 Q. (By Mr. Hooker) Okay. Would you -- as the
 6 On-Scene Coordinator for the Dead Creek project, would
 7 you have received the correspondence?
 8 A. I'm sure I did receive that correspondence.
 9 Q. Okay. Reading this -- this information
 10 that's provided by Solutia to Mike McAteer, does this
 11 refresh your recollection as to the contents of that
 12 correspondence?
 13 A. Not specifically, no.
 14 Q. Does this information refresh your
 15 recollection as to the events that were being discussed
 16 in relation to the Cahokia plan during that period of
 17 time?
 18 A. No more so than I've already indicated.
 19 Q. I mean, if you had never read this, would you
 20 still understand, would you be able to tell me that
 21 there were containment cell design negotiations or
 22 discussions and there were discussions about submitting
 23 an alternative analysis independent of reading this?
 24 Would you be able to tell me that?
 25 A. It would have been hard to -- to remember

1 that, the specifics of that, but I mean, I remember
2 that we had discussions about containment cells, and I
3 remember a discussion -- discussions about the
4 submittal of the evaluation of alternatives such as
5 listed in number one there. I remember those types of
6 discussions. I don't remember any of the dates
7 associated with it. I don't remember any --

8 Q. I understand.

9 A. -- any -- any of the specifics of those
10 discussions. I remember that we had those discussions.

11 Q. Okay. The next paragraph. Read that for me.

12 A. Solutia also formally responded to the
13 agency's September 24 correspondence on the UAO --

14 Q. Stop right there. We're referring to the
15 June 1999 UAO here, right?

16 A. I would assume.

17 Q. There's no other UAO at this time that you're
18 aware of with respect to Dead Creek, right?

19 A. No.

20 Q. So it makes sense that we're talking about
21 the June '99 UAO? Okay. Go ahead.

22 A. Yes. On October 30, agreeing to begin
23 immediately to perform the culvert modifications and
24 recommending to one, proceed and focus on project
25 development and approval of the on-site containment

1 Q. Okay.

2 A. I'm sorry. I should rephrase that. Solutia
3 proposed their location, and we agreed to it subject to
4 meeting sighting requirements.

5 Q. And that's the things we talked about
6 earlier, the flood plain and geology? All right. Do
7 you know whether more than one location was considered?

8 A. I do not know.

9 Q. I understand this is pretty tedious, so if
10 you need to take a break, let me know.

11 All right, Mr. Turner. I have a document here
12 I'm going to mark for identification as Turner Exhibit
13 No. 13. It's dated November 8th, 1999. It's addressed
14 to you, and it's signed by D.M. Light. It's entitled
15 the -- it just says re: June 21st, '99 -- 1999 US EPA
16 UAO, alternatives analysis.

17 Have you ever seen that document before today.
18 Mr. Turner?

19 A. Yes.

20 Q. Do you recall receiving this document in
21 November of '99?

22 A. Yes.

23 Q. Do you recall the purpose of this document?

24 A. Yes.

25 Q. Could you tell me what that is?

1 cell proposal which will expeditiously remove the
2 source of the contaminated sediments, and two, postpone
3 the installation of facilities to pump storm water from
4 Sector B because of technical and regulatory
5 encumbrances.

6 Q. So it sounds like there was a separate
7 correspondence with respect to the culvert
8 modifications. Would that be after the approval of the
9 work plan that we discussed earlier?

10 A. I don't -- I don't know.

11 Q. Okay. Do you recall that the culvert work
12 began sometime in the fall of '99?

13 A. I believe that's what I stated earlier.

14 Q. Actually, you know, I think you're right.

15 Okay. At this point in time were you involved
16 in the -- selecting the location of the containment
17 cell, in November of '99?

18 A. No. I was -- I was never involved with the
19 selection of -- I'm sorry. Could you repeat your
20 sentence or your question?

21 Q. I asked at this point in time, November of
22 '99, were you involved in the selection of the location
23 of the containment cell?

24 A. Okay. I was never involved with the
25 selection of the location.

1 A. This is a -- a meeting alternatives document
2 that contemplated different actions.

3 Q. Anything else you want to add to that?

4 A. No. That's what it is.

5 Q. Was this document put out for public comment?

6 A. No, it was not.

7 Q. So this document wasn't commented on by
8 anybody other than the agency?

9 MS. TORRENT: Objection to the form of the
10 question. There has been no establishment that the
11 document had to be put out for public comment. Lack of
12 foundation. Do you want him to ask the question again?

13 MR. HOOKER: No.

14 A. I forgot your question.

15 Q. (By Mr. Hooker) So did I, so let's start
16 over.

17 I think I asked you if this document was
18 subject to public comment and you said no.

19 MR. HOOKER: And then what was my question
20 after that?

21 (The preceding question was read back as
22 requested.).

23 MR. HOOKER: Strike the question.

24 Q. (By Mr. Hooker) I'd like you to turn your
25 attention to page 17. Oops. Page 16. Direct your

1 attention to Section 4.2 entitled Off-Site Disposal.
2 Could you take a look at that for me? Read that. **Don't**
3 read it into the record; just take a look at it. Read
4 it to yourself.

5 MS. TORRENT: While the witness is **reading**
6 4.2, I'd note that there's some underlining and cross
7 outs on the document. Are these yours?

8 MR. HOOKER: No. This is the way you **produced**
9 it to me, Miss Torrent, on the CD. Any image that **was**
10 printed had this on it.

11 MR. SEPESI: What page are we on?

12 MR. HOOKER: Page 16 and 17.

13 MS. TAPE: Is that Turner document 13? Is it
14 Exhibit 13?

15 MR. HOOKER: I think it's 13, Linda.

16 Q. (By Mr. Hooker) Does this indicate that **some**
17 of the sediments from Dead Creek were subject to the
18 RCRA land disposal restrictions?

19 A. That's what this indicates.

20 Q. And in order to effectuate off-site disposal,
21 they would have to do universal treatment standards.
22 Is that the term?

23 A. They would have to meet universal treatment
24 standards, that's correct, according to this document.

25 Q. Okay. And is that -- is that difficult to

1 Q. Then it says a time critical removal action
2 could not include off-site disposal. Is that what that
3 says?

4 A. That's what that sentence says, yes.

5 Q. Do you agree with that?

6 A. Well, if you take it in context with the
7 sentence above it, the conclusion is correct.

8 Q. Okay. So you agree with that. The last
9 sentence says in addition, the EECA --

10 MS. TORRENT: Objection. The witness
11 answered. You didn't hear his response in your
12 summation.

13 Q. (By Mr. Hooker) I'm sorry. Did I miss
14 something?

15 A. I agree with the sentences, the two sentences
16 as written here, but I don't agree with the conclusion.

17 Q. Oh. You don't. Oh, okay. Well. Let's --
18 why don't you agree with it?

19 A. I think that the -- if you needed to meet the
20 universal treatment standards for land disposal,
21 off-site land disposal, it could have been met. The
22 planning process could have been completed, and the
23 action could have begun in less than six months.

24 Q. I see. So you don't agree with Solutia's
25 conclusions that they would be precluded from doing

1 do, if you know?

2 A. Yes, I do know, and no, it is not -- it is
3 not difficult to -- at least in my opinion, it is not
4 difficult to -- to -- to meet universal treatment
5 standards.

6 Q. Okay. There's a sentence on page 17 that
7 says since thermal treatment or solvent extraction
8 would be required prior to land disposal of CS-B
9 sediments, it is not possible to complete the **planning**
10 process within a six-month time frame. What does **that**
11 mean?

12 A. Well, according to this document, Solutia
13 felt that they -- in order to -- to meet land ban or
14 land disposal requirements, land ban requirements, **they**
15 would have to take the sediments out of Segment **B** and
16 **either do a thermal treatment process or a solvent**
17 extraction process before sending it to a -- a
18 landfill.

19 Q. I see. What's the six-month time in
20 reference to? Would it take more than six months to
21 extract solvents?

22 A. No. The six months refers to under removal
23 authority beginning a removal action, the time **critical**
24 removal action is six months from the issuance of the
25 UAO or AOC.

1 off-site disposal?

2 A. Right.

3 Q. Okay. I apologize for jumping ahead.

4 MS. TORRENT: That's all right.

5 Q. (By Mr. Hooker) I didn't hear you. The last
6 sentence. In addition, the EECA that is currently being
7 performed as part of the AOC for Saugat Area 1 is
8 evaluating thermal treatment of waste and sediments.
9 Were you aware that that was going on?

10 A. I was aware of that because I read that here.

11 Q. Okay.

12 A. And I -- and I read that here when I received
13 this in June of 1999. Beyond that, I have no idea what
14 that meant.

15 Q. You mean when you received it in November of
16 '99?

17 A. November of '99, correct.

18 Q. All right. Did you -- did you discuss with
19 Mike McAteer whether the -- that was being done under
20 the EECA for Area 1?

21 A. No.

22 Q. Okay. I'm not quite sure I understand what
23 they mean or what it means to say in addition, the EECA
24 that is being performed evaluates thermal treatment.
25 What does that add to this analysis?

1 MS. TORRENT: Objection to the form of the
 2 question to the extent it may call for him to speculate
 3 because he's not the author.
 4 Q. (By Mr. Hooker) To the extent that you know.
 5 A. I was not a party to -- to these EECA
 6 conversations, so --
 7 Q. Okay. I understand that, but there's --
 8 there's a sentence here in the document about
 9 evaluating alternatives for off-site disposal. It
 10 seems to me that you can read that to say well, we're
 11 already evaluating this under the EECA, so we don't
 12 need to do it again and it's going to be addressed in
 13 that. Is that what that says to you?
 14 A. That could be a fair interpretation.
 15 Q. Okay. Did you ever see the support sampling
 16 plan for the Area 1 RIFS EECA?
 17 A. No.
 18 Q. No. Give me a second to look for a document.
 19 Found it. Do you need to take a break, Mr. Turner?
 20 A. No.
 21 Q. Okay. All right. I'm going to -- I've
 22 marked for identification as Turner Exhibit 14 a
 23 monthly report dated August 11, 2000 -- I didn't get
 24 the whole thing, did I -- from D.M. Light to Mike
 25 McAteer. Let me make sure I have the whole thing. I

1 want to direct your attention to a document that's
 2 attached to this that's entitled Technical Memo No. 1,
 3 and the first -- the very first sentence says in
 4 accordance with Section 12.0 of the Saugat Area 1
 5 Engineering Evaluation/Cost Analysis, open paren EECA,
 6 closed paren, and Remedial Investigation/Feasibility
 7 Study, open paren, RIFS, closed paren, support sampling
 8 plan dated June 25th of 1999, a pilot treatability
 9 sampling program is to be performed as part of the
 10 evaluation of remedial alternatives for sediments and
 11 source areas. Do you see that?
 12 A. Yes.
 13 Q. Did I read that correctly?
 14 A. Yes.
 15 Q. Okay. We're going to go down one sentence
 16 that begins soil -- same paragraph -- soil and sediment
 17 samples. Do you see where I am?
 18 A. Uh-huh.
 19 Q. Soil and sediment samples collected during
 20 implementation of the sampling plan were to be
 21 subsequently submitted to qualified and permitted
 22 contractors for pilot and bench scale testing using low
 23 temperature thermal desorption, incineration and
 24 stabilization technologies. Do you see that?
 25 A. Yes.

1 Q. Did I read that correctly?
 2 A. Yes.
 3 Q. Let's go down to the second paragraph, and
 4 it's going to be six sentences from the bottom
 5 beginning with however. However, after recent
 6 conversations between representatives of Solutia, Inc.
 7 and Region V of the United States Environmental
 8 Protection Agency, a determination was made that pilot
 9 testing of the Dead Creek sediments would not be
 10 necessary since this material is to be removed and
 11 placed in an on-site containment cell. Do you see
 12 that?
 13 A. Yes.
 14 Q. So on the one hand, Solutia is saying in
 15 their evaluation analysis to you hey, don't worry,
 16 we're going to be looking at this option anyway in our
 17 EECA, and on the other hand, they're saying in this
 18 document you know what, EPA, to Mike McAteer, a
 19 different branch, we don't need to do that thermal
 20 desorption incineration stuff, right?
 21 MS. TORRENT: Objection to the form of the
 22 question.
 23 A. I -- I was not a party to the EECA, so --
 24 Q. (By Mr. Hooker) I understand.
 25 A. And this is -- this is being submitted as

1 part of an EECA AOC, so any kind of discussions that
 2 Mike McAteer had related to the EECA, I don't know
 3 anything about them.
 4 Q. Okay. That's fair.
 5 A. For me to sit here and speculate as to what
 6 they're saying in here versus what they're telling me
 7 as part of the Dead Creek removal activities is
 8 strictly speculation.
 9 Q. Were you told about the Dead Creek sediments
 10 not being tested for -- pilot tested for incineration
 11 or thermal desorption? Were you part of that decision?
 12 A. I don't remember, but I don't remember it
 13 also being an issue.
 14 Q. Okay. Okay. Well, let's go to the last
 15 page. Middle paragraph, second sentence. It says the
 16 main problem that was identified is that thermal
 17 desorption does not reach high enough temperatures to
 18 destroy PCBs. Did I read that correctly?
 19 A. Where are you?
 20 MS. TORRENT: Where are you?
 21 Q. (By Mr. Hooker) I'm sorry. Middle paragraph,
 22 second sentence.
 23 A. Approximately?
 24 Q. Exactly. The middle paragraph, the second
 25 sentence.

1 A. Approximately eight cubic feet of soil were
 2 collected in mid April.
 3 Q. Page 3.
 4 A. 3.
 5 Q. The last page. You were on the next page.
 6 MR. EDGAR: That's why he didn't find it.
 7 A. I have read that sentence.
 8 Q. (By Mr. Hooker) Okay. Are you aware that
 9 that's an issue with PCBs, that they're hard to destroy?
 10 MS. TORRENT: Objection to the form of the
 11 question.
 12 You can answer it if you can.
 13 A. Thermal desorption is one technology.
 14 Incineration is another technology.
 15 Q. (By Mr. Hooker) Right.
 16 A. Thermal desorption is one way to characterize
 17 it. It's kind of like a -- an oven, a cookie -- a
 18 cookie baker, and thermal desorption does not reach
 19 high enough temperatures to destroy PCBs. Incineration
 20 does --
 21 Q. Right.
 22 A. -- so that is a correct statement.
 23 Q. So my question is -- and maybe you're not the
 24 right guy to ask. Maybe it's Mike McAteer. Let's go
 25 back to the first page. Strike that last statement.

1 Let's go back to the first page.
 2 MS. TORRENT: The first page?
 3 MR. HOOKER: Of the technical memo.
 4 Q. (By Mr. Hooker) Do you know -- you don't know
 5 when the support sampling was first submitted, do you?
 6 A. No.
 7 Q. You weren't part of that, were you?
 8 A. No.
 9 Q. Was that Mike McAteer?
 10 A. Yes.
 11 Q. He would be better to answer these questions?
 12 A. Yes.
 13 MS. TORRENT: Objection. Calls for
 14 speculation.
 15 Q. (By Mr. Hooker) Okay. Let's go back to the
 16 document that you know something about. Does that make
 17 you feel more comfortable?
 18 MR. HOOKER: What's the number?
 19 MS. TORRENT: This one is 14.
 20 MR. HOOKER: 13. We've been going for almost
 21 two hours.
 22 MR. EDGAR: You're an hour ahead of time.
 23 MS. TORRENT: It just feels like it.
 24 MS. TAPE: I was going to say.
 25 MR. SCHULTZ: It just felt like two hours.

1 MR. HOOKER: Hey, be nice. Be gentle.
 2 MR. EDGAR: We can take a break if that's what
 3 you're driving at.
 4 (A short break was taken.)
 5 Q. (By Mr. Hooker) Okay, Mr. Turner. Let's get
 6 back to the November '99 time frame where -- where
 7 you're actually involved in what's going on.
 8 MS. TORRENT: About time.
 9 MR. HOOKER: Is that on the record? Good.
 10 Q. (By Mr. Hooker) All right. Mr. Turner, I'm
 11 marking for identification as Turner Exhibit 15 a
 12 January 17th, 2000 monthly report. It's from D.M. Light
 13 to Mr. Michael McAteer. Would you look at that, please.
 14 Ready?
 15 A. Uh-huh.
 16 Q. Okay. If you go to page 4 which says this
 17 report period. Do you see that?
 18 A. Yes.
 19 Q. Start with No. 3. Can you read that for me?
 20 A. Solutia continued attempts to reach agreement
 21 on an access agreement with Terminal RR for purposes of
 22 performing the UAO required work at Cargill Road and
 23 the Terminal RR crossing. Solutia has requested
 24 assistance from US EPA in gaining access from Terminal.
 25 US EPA has agreed to issue an order to Terminal.

1 Q. Okay. So it sounds like there was work being
 2 done under the first UAO; is that correct?
 3 MS. TORRENT: Objection to the form of the
 4 question.
 5 You can answer it if you understand it.
 6 Q. (By Mr. Hooker) As far as you know?
 7 A. Yes.
 8 Q. Okay. And as far as you know, that was done
 9 under a time critical reaction -- time critical removal
 10 action work plan?
 11 MS. TORRENT: Objection to the form of the
 12 question.
 13 You may answer it if you can.
 14 A. Yes.
 15 Q. (By Mr. Hooker) We discussed earlier that you
 16 thought there was a time critical removal action work
 17 plan that was approved and being operated under for the
 18 first UAO. Do you recall that?
 19 A. I recall that conversation, yes.
 20 Q. So if we go back to the order, the June '99
 21 order, and we look at page 10, I believe that's Turner
 22 3. Under Section 3.4, Reporting, can you read that for
 23 me, the first sentence?
 24 A. Respondents shall submit a monthly written
 25 progress report to EPA concerning activities undertaken

1 pursuant to this order beginning 30, no. 30 in
2 parentheses, calendar days after the date of EPA's
3 approval of the work plan, until termination of this
4 order, unless otherwise directed by the OSC.

5 Q. The OSC, that's you?

6 A. Correct.

7 Q. The document that we just marked for
8 identification as 14 --

9 MS. TORRENT: 15.

10 Q. (By Mr. Hooker) 15. Have you ever seen that
11 document before today?

12 A. No. but I recall it.

13 MS. TORRENT: Todd, if I might just interject
14 here, the document speaks to AOC/RIFS.

15 MR. HOOKER: Right. You're absolutely right.
16 It says AOC, EECA, RIFS which raises my question,
17 Miss Torrent.

18 Q. (By Mr. Hooker) Why weren't these issues
19 being reported under a separate report to you? Why were
20 they being submitted to Mike McAteer if the order
21 requires reports to the OSC?

22 A. I would have to look at my files, but maybe
23 Solutia was submitting different monthly reports to me
24 as well.

25 Q. Okay. So you think there might be additional

1 attempt to gather those up together and we'll produce
2 those that are not privileged to you in a timely
3 fashion.

4 MR. HOOKER: Can you explain to me how the
5 monthly report submitted by Solutia can be privileged by
6 the government?

7 MS. TORRENT: I can't explain it to you right
8 now, Mr. Hooker, because I've not seen the document.

9 MR. HOOKER: But you anticipate that it might
10 be, or you're just reserving your objection?

11 MS. TORRENT: I'm reserving my right, yes.

12 Q. (By Mr. Hooker) Okay. Let's go back to 15,
13 back to this report period, No. 1. Can you read that
14 for me, please?

15 A. On December 3, Solutia submitted an on-site
16 containment cell design for containing the Sector B
17 contaminated segments. A preliminary design review
18 meeting was held with the agencies on January 5, 2000,
19 in Sauget.

20 Q. Okay. Do you recall receiving the
21 containment cell design that was sent by Solutia on
22 December 3rd?

23 A. Yes.

24 Q. Did you comment on that containment cell
25 design?

1 monthly reports that -- that relate specifically to the
2 culvert replacement UAO?

3 A. There might be. I'd have to -- I'd have to
4 look at my files.

5 Q. Okay.

6 A. And as to why they're in here, I don't know
7 why.

8 Q. As you sit here today, do you know whether
9 there are additional monthly reports or you think that
10 there might be?

11 A. There might be.

12 Q. (By Mr. Hooker) To the extent that there are
13 additional monthly reports, Miss Torrent, I'd like to
14 request that they be produced. I haven't -- they
15 haven't been made available prior to today.

16 MS. TORRENT: We'll be happy to make those
17 available to the extent that we can find them. To the
18 extent they're not privileged, we'll be happy to make
19 them available. In addition, there have been other
20 documents you've identified today through the course of
21 the deposition and I'm sure there will be others that
22 you'll identify as well.

23 MR. HOOKER: There will be.

24 MS. TORRENT: Let me just state for the record
25 and for the other counsel that are here that we will

1 A. Yes.

2 Q. (By Mr. Hooker) That's another one of those
3 documents, Miss Torrent, that I was referring to that
4 we're going to be requesting.

5 MS. TORRENT: Yeah. We can either do that, or
6 write me a letter with all the documents, whatever you
7 prefer.

8 MR. HOOKER: That has not been made available
9 as part of the Administrative Record or part of your
10 prior discovery disclosures.

11 Q. (By Mr. Hooker) Can you read No. 2 for me
12 also?

13 A. A TSCA Technical Requirements Compliance
14 Demonstration document was submitted to the agency on
15 December 6th. This document was also discussed at the
16 January 5, 2000 preliminary design review with the
17 agencies.

18 Q. Could you tell me what a TSCA Technical
19 Requirements Compliance Demonstration document is?

20 A. No, I couldn't.

21 Q. Okay. As you sit here today, do you recall
22 what that document related to?

23 A. I am sure that the document looked at the
24 ability to meet the technical requirements of a TSCA
25 containment cell.

1 Q. Do you recall discussing that document --
2 strike that.

3 Were you at the January 25th, 2000 meeting --
4 I'm sorry -- the January 5th, 2000 meeting that's
5 identified in this document?

6 A. I don't remember.

7 Q. Do you know, generally speaking, are meetings
8 such as the one that's referenced here, are there
9 minutes taken?

10 A. There would be sign-in sheets --

11 Q. Okay.

12 A. -- and then people would take their
13 individual notes. There would be no formal notes or
14 minutes taken on behalf of the group.

15 Q. Do you typically take notes at these types of
16 meetings?

17 A. No.

18 Q. No. Do you -- you've never taken notes at
19 any of these meetings?

20 A. You said typically. Typically I don't.
21 Sometimes I do.

22 Q. Okay. As you sit here, can you recall
23 whether any notes were taken by you at, say, the
24 meetings that were discussed earlier, the July 7th,
25 July 15th, October 19th meeting that was discussed in

1 that some of them have. The second paragraph that
2 begins with respect, would you read that for me?

3 A. With respect to the Dead Creek sediment
4 removal and on-site containment cell project, Solutia
5 and US EPA continue to discuss the appropriateness of
6 the Solutia proposal. No final determination has yet
7 been made by the agency.

8 Q. Okay. And the Solutia proposal, was that the
9 Cahokia plan?

10 A. Yes.

11 Q. This is May 10th of 2000?

12 A. Uh-huh.

13 Q. So this -- Solutia and EPA have been talking
14 about this proposal for about 10 months now, is that
15 right, 10 or 11 months from July to May of -- July of
16 '99 to May of 2000; is that correct?

17 A. I assume.

18 Q. I don't want you to assume. You know, we can
19 go back and take a look at the documents again if you
20 want.

21 A. If that is accurate -- accurately reflected,
22 then yes, that's correct.

23 Q. Well, I'm asking you. I need you to tell me
24 that, whether it is or it isn't.

25 A. I'd say yes.

1 these documents?

2 A. No. What I can say is that I took varied
3 notes during the various meetings associated with the
4 containment cell design or the work plan comment type
5 meetings. I know I took comment -- I took notes on
6 those. Specifically on this meeting or that meeting,
7 unless I looked at my notes and could compare them to a
8 date, no, I don't know.

9 Q. I understand. Now, the -- the on-site
10 containment cell design that's referenced in No. 1,
11 this is the same containment cell that we've been
12 talking about since July of 1999?

13 A. Yes.

14 Q. Some of these I'll skip over and save them
15 for next time to try to get through most of this today.

16 Okay, Mr. Turner. I've marked for
17 identification as Turner Exhibit 16 a document dated
18 May 10th, 2000 from D.M. Light to Mr. Michael McAteer.
19 Can you take a gander at that for me?

20 MR. GREENBERG: Off the record.

21 (There was a discussion off the record.)

22 Q. (By Mr. Hooker) Can I direct your attention,
23 please, to the portion of the report that's labeled this
24 report period, and if you could go to the second
25 paragraph, this one doesn't have the fancy bullet points

1 Q. Were you involved at this point in time in
2 preparing the UAO for the creek segments in the May of
3 2000 time frame?

4 A. Do you have a copy of the UAO handy?

5 Q. We'll get to that next.

6 A. I'd like to see the date of the UAO.

7 Q. I can tell you the date of the UAO -- I'm not
8 trying to hide anything from you -- is -- the action
9 memo -- there's an action memo here that says it's from
10 you dated May 31st, 2000. The order itself, and we'll
11 introduce these, Counsel, so -- it's signed by William
12 Muno, and it's also dated May 31st, 2000.

13 A. So your statement that May of 2000, the
14 drafting of the action memo was occurring, that's
15 correct.

16 Q. All right. So is the statement that the
17 final determination has not yet been made by the
18 agency, is that incorrect? Solutia didn't know?

19 A. That is a correct statement.

20 Q. Okay. All right. Okay, Mr. Turner. I'm
21 marking for identification as -- I think it's 17 -- as
22 Turner Exhibit 17 a document that's dated May 31st,
23 2000. It's called an Action Memorandum and it says
24 it's from you, so let's take -- let's take a look at
25 this.

1 MS. TORRENT: Mr. Hooker, I'm going to note
2 that Exhibit 17 that you've marked for identification
3 has within it a page that is privileged and should have
4 been redacted, and I'm not quite sure why it's in here
5 because the copy that I have that came from the CD does
6 not have this document in it.

7 MR. HOOKER: Okay.

8 MS. TORRENT: So I'm going to request at this
9 time that you pull that sheet out.

10 MR. HOOKER: I don't have any questions about
11 this page.

12 MR. GREENBERG: For the record, I should let
13 everybody know that I just distributed five copies that
14 included that page.

15 MS. TORRENT: I would ask the parties at the
16 table to please pass those this way because I'm going to
17 claim the privilege on that.

18 MR. HOOKER: It sounds like it was produced
19 more than once. I don't have any questions about that,
20 so I'm not going to object to your -- to your asking to
21 pull it, but I can't speak for the other counsel.

22 MR. SEPESI: Karen, what are you withdrawing?

23 MS. TORRENT: Well, I'm withdrawing the --

24 MR. EDGAR: What page are you talking about?

25 MS. TORRENT: There's a page that's marked

1 My position is the same --

2 MS. TORRENT: I would assume your
3 justification --

4 MR. SCHULTZ: -- if I decide to hold it.

5 MS. TORRENT: Is there anyone else?

6 MR. HAYES: It's privileged. You're claiming
7 a privilege on it?

8 MS. TORRENT: Yes, I am.

9 MR. HAYES: I agree with you. Dan Hayes for
10 the Village of Sauget.

11 MS. WUNDERLICH: I have no idea. I haven't
12 had an opportunity to go through it or see what it says
13 or how it was produced or anything else.

14 MR. HOOKER: Yeah. I mean, I feel the same
15 way in terms of I'm not going to ask any questions about
16 it today so I'm not going to object to your pulling it
17 from my questioning, but we've had it for a while,
18 apparently.

19 MS. TORRENT: Well, according to the case
20 management order and the procedures in place, I'm
21 requesting that it be pulled back.

22 MR. HOOKER: I don't plan on asking any
23 questions about it, so I don't -- I don't have any gripe
24 with you at this point in time about that document.

25 Q. (By Mr. Hooker) All right. Now that we've

1 Enforcement -- Confidential Enforcement Addendum, Sauget
2 Area 1.

3 MR. SEPESI: Mine's been redacted.

4 MS. TORRENT: That's correct.

5 MR. SEPESI: This is also off of --

6 MS. TORRENT: He's got it in his.

7 MR. GREENBERG: And I just distributed it to
8 some of the other folks here before you made your
9 objection because they requested to have copies, and I
10 figured we were going to get to this document. I'll
11 take the request under advisement at this time, Karen,
12 as far as for my client. I'd like to look at it and
13 decide what the circumstances are in which I received
14 the document and whether there is or is not a waiver.

15 MS. TORRENT: Can you recall whether or not
16 that document -- how you received that document?

17 MR. GREENBERG: I don't. I will tell you that
18 it bears a stamp Borries and exhibit blank which means I
19 put it together for the Borries deposition. I don't
20 believe I actually used it in that deposition, so I
21 don't know where I got it from. I suspect I'll have to
22 consult with Mr. Edgar on that.

23 MS. TORRENT: And other counsel's positions
24 are?

25 MR. SCHULTZ: Rob Schultz for Rogers Cartage,

1 redacted the document, we can, I think move on.

2 Okay, Mr. Turner. Did you author this
3 particular document?

4 A. Yes. I would have co-authored it.

5 Q. Okay. Fair enough. Who would have been one
6 of your two or three co-authors?

7 A. Tom Martin would have assisted in this and so
8 did Mike McAteer.

9 Q. Okay. Tom Martin is the attorney for EPA?

10 A. Yes.

11 Q. And he assisted in the preparation of this
12 document?

13 A. Yes.

14 Q. And Mike McAteer is the Regional Project
15 Manager for the Sauget Area 1 site?

16 A. Remedial project manager.

17 Q. What did I say?

18 A. Regional.

19 Q. Oh, okay. All right. Now let's go to the
20 first sentence here of the memo. It says the purpose
21 of this memorandum is to document the determination of
22 an imminent and substantial threat to public health and
23 the environment due to contaminated sediments along
24 Dead Creek and Site M. Dead Creek sediments and soils
25 are the major potential source of contamination in Dead

1 Creek flood waters.
 2 Okay. Here we have another reference to the
 3 Dead Creek flood waters. Is this the same flooding that
 4 was referred to in the June of '99 order?
 5 A. Yes.
 6 Q. Okay. And once again, I'm going to ask.
 7 When was the last time that Dead Creek flooded?
 8 MS. TORRENT: Object to the form. Asked and
 9 answered.
 10 A. I do not know.
 11 Q. (By Mr. Hooker) Do you know if Dead Creek
 12 flooded at any time in the 1990s?
 13 A. I can assume yes.
 14 Q. Okay. What's the basis of that assumption?
 15 A. The '93 flood.
 16 Q. So you're assuming that the Mississippi, is
 17 what you're referring to, flooded the area?
 18 A. Uh-huh.
 19 Q. And so based on that assumption, you think
 20 Dead Creek may have flooded also?
 21 A. Yes.
 22 Q. But you don't know that for a fact?
 23 A. No.
 24 Q. So assuming that you're -- you're correct,
 25 that in '93 Dead Creek flooded, let's assume that's

1 correct. That's the last time that creek flooded; is
 2 that correct?
 3 MS. TORRENT: Object to the form of the
 4 question.
 5 MR. SCHULTZ: Object to the form. Go ahead.
 6 You first. Object to the form; lack of expertise, lack
 7 of personal knowledge.
 8 MR. HOOKER: Okay, Mr. Schultz. I just said
 9 based on his assumption. I'm talking about his
 10 assumption.
 11 A. I -- I do not know.
 12 Q. (By Mr. Hooker) Okay. That's what I thought.
 13 The next -- the next sentence says contaminated creek
 14 sediments and soils must be removed as soon as possible
 15 to eliminate the imminent and substantial threat of
 16 exposure to the contamination via direct contact by
 17 nearby residents and via flooding from Dead Creek.
 18 What facts were developed by the agency
 19 between June of '99 to May of 2000 that led you to
 20 believe that you had to go from culvert replacement UAO
 21 to sediment replacement UAO or sediment removal UAO?
 22 MS. TORRENT: I'm going to object to that
 23 question on the grounds of CERCLA. You're entering into
 24 decision-making authorities by the agency.
 25 MR. HOOKER: I'm asking for his facts,

1 Counsel.
 2 MS. TORRENT: Your question asked what led him
 3 to the additional UAO in addition to the culvert UAO.
 4 That's where my objection lies.
 5 MR. HOOKER: Are you going to instruct him not
 6 to answer that question?
 7 MS. TORRENT: I'm going to instruct him not to
 8 answer that question.
 9 Q. (By Mr. Hooker) I want to know what facts
 10 were developed by the agency that led to the issuance of
 11 the May of 2000 UAO.
 12 MS. TORRENT: You can answer that question.
 13 A. A, B, and C under No. III starting on page 6
 14 and going on to page 7 are the -- are the criteria we
 15 used to issue this.
 16 Q. (By Mr. Hooker) A, B, and C on page 6 and 7
 17 of your action memo, right?
 18 A. Yes.
 19 Q. Okay. Could you please go back to Turner No.
 20 1? I believe that's the action memo for the culvert
 21 UAO. Go to page -- oh, I think it's page 4. This
 22 one's not numbered like the 2000 one. Are you at page
 23 4, public -- threats to the public health, welfare, or
 24 the environment? Are you there?
 25 A. Yes.

1 Q. We're also on page 6 on Turner 17, I believe
 2 it is, where you just said that was the basis of the
 3 facts that were developed?
 4 A. Yes.
 5 Q. They're exactly the same, Turner 1 and Turner
 6 17, are they not?
 7 A. I haven't done a word-by-word comparison,
 8 but --
 9 Q. Please do.
 10 A. This is not a word-by-word -- it's not
 11 exactly the same.
 12 Q. Okay. Are there -- are there some words that
 13 are different?
 14 A. Uh-huh.
 15 Q. Can you point them out to me?
 16 A. The May 31st one refers to Site M for
 17 starters.
 18 Q. Okay.
 19 A. The June 9th one does not refer to Site M.
 20 Q. Okay. So we have a new site.
 21 A. The June 9th one refers to flood waters
 22 backing up behind blocked or inadequately sized
 23 culverts. The May 31st one does not refer to flood
 24 waters backing up.
 25 Q. Sure it does.

1 A. It says -- let me -- let me read this one
2 here. It says Dead Creek -- I'm paraphrasing here
3 slightly. Dead Creek is -- this is off of the June 9th
4 one.

5 Q. Let's do it this way. Let's read the first
6 sentence of the June '99 -- we're at A, right? Read
7 the first sentence of June '99.

8 A. This condition exists at the site due to high
9 levels of organic and inorganic contaminants found in
10 the sediments and surface water of Dead Creek which
11 could potentially be released into the residential area
12 via flood waters backing up behind blocked or
13 inadequately sized culverts.

14 Q. Okay. Now read the first sentence of the
15 May 2000 one.

16 A. This condition exists at the site due to the
17 high levels of organic and inorganic contaminants found
18 in the sediments and surface water of Dead Creek and
19 Site M which is located in close proximity to local
20 populations and could potentially be released into
21 residential areas via flood waters caused by the
22 shallow water table in the area and the presence of
23 blocked or inadequately sized culverts.

24 Q. So really the only addition is Site M and the
25 fact that Site M has some exposure to --

1 A. No. We also have in here shallow water table
2 which is not mentioned in that first sentence.

3 Q. So shallow --

4 A. We also have released to residential areas
5 via flood waters which is not -- yeah. I'm sorry. It
6 is mentioned.

7 Q. It is mentioned, yes.

8 A. It is mentioned. So they're not exactly the
9 same.

10 Q. So I'll grant you they're not exactly the
11 same. The new one has the May 2000 reference to Site
12 M. The June '99 doesn't reference Site M, but the
13 findings under Section 3, how are they different other
14 than the shallow -- the shallow water -- the shallow
15 water table? Is that the -- let me strike that.

16 Is the shallow water table the new facts that
17 have been developed by EPA to justify the sediment
18 removal in Dead Creek? Is that what you're telling me?

19 MS. TORRENT: Object to the form of the
20 question. You seem to be indicating that there has to
21 be new facts in order for them to issue a different UAO.

22 MR. HOOKER: I'm not suggesting anything like
23 that. I'm just asking questions.

24 MS. TORRENT: I'm objecting to the form of the
25 question.

1 You can answer the question.

2 A. Could you restate the question, please?

3 Q. (By Mr. Hooker) Other than the shallow water
4 table, okay, what facts differ in the 1999 UAO to the
5 2000 UAO?

6 A. Site M.

7 Q. Okay. You included Site M. That's about it,
8 isn't it?

9 MS. TAPE: I'm going to make an objection to
10 the extent Mr. Turner hasn't had a chance to review both
11 of these documents page by page so he can address
12 differences in them.

13 MR. HOOKER: He prepared both of these
14 documents, Counsel.

15 MS. TAPE: Pardon me?

16 MR. HOOKER: He prepared both of these
17 documents.

18 MS. TAPE: Two or three years ago.

19 Q. (By Mr. Hooker) Mr. Turner, would you like
20 some more time to take a look at these documents?

21 A. I'm just looking at B and C to see if they're
22 different. It appears as if C is exactly the same. It
23 appears as if B is exactly the same.

24 Q. I'm sorry. I didn't hear that.

25 A. It appears as if B is exactly the same.

1 Would you restate your question?

2 Q. You answered it.

3 MS. TAPE: Can we hear the question? I'm
4 sorry.

5 MR. HOOKER: She'll have to read it back.
6 (The question was read back as requested.)

7 MR. HOOKER: You made the objection he didn't
8 have time to review the document during that period of
9 time of your objection and Miss Torrent's objection. He
10 reviewed the document and indicated yes, that's about
11 it. Site B is exactly the same and C is exactly the
12 same.

13 MS. TAPE: I'm going to continue that
14 objection. I have not seen Mr. Turner review both of
15 these whole documents from front to back.

16 MR. HOOKER: I didn't ask him to review the
17 entire document. I asked him to review the section he
18 referred to in his answer. I didn't ask him to compare
19 the entire documents, just those two sections.

20 MS. TAPE: Same objection.

21 Q. (By Mr. Hooker) All right. Let's see if we
22 can move on.

23 Can you go to page 3 of the May 2000? You
24 know what? I'm not going to ask you any questions on
25 that page at this point in time, anyway, because I don't

1 want Miss Tape to say I'm being unfair in not giving you
2 enough time to review the document.

3 Okay. Let's go to page 8. There's no number
4 on my page 8. It's right after page 7. You have a
5 number on yours.

6 MS. TORRENT: Yeah. We've also got a lot of
7 underlinings and cross-outs. That may be a function of
8 the document production.

9 MR. HOOKER: I don't know. Those aren't mine.

10 Q. (By Mr. Hooker) Okay. Let's see. If we
11 could go down to applicable or relevant and appropriate
12 requirements. Do you see that?

13 A. Yes.

14 Q. Could you read the last sentence in that
15 paragraph beginning with EPA?

16 A. EPA has determined that Creek Segments B, C,
17 D, E, and Site M along with the proposed TSCA cell are
18 within the same area of concern, AOC within
19 parentheses, and therefore the consolidation of waste
20 material within the cell, as described in this order,
21 does not invoke any of the land disposal restrictions,
22 LDRs in parentheses, under RCRA.

23 Q. Okay. And that's the same land disposal
24 restrictions that were being discussed by Solutia in
25 the November 8th evaluation alternatives memo or

1 something on site is that -- strike that.

2 The result of calling the containment cell on
3 site is that you don't have to comply with the RCRA land
4 disposal restrictions; is that correct?

5 A. I believe that that would be in theory.

6 However, in practice when you -- when this containment
7 cell was actually built and designed or designed and
8 subsequently built, we exceeded the -- the -- met or
9 exceeded the RCRA/TSCA requirements for construction.
10 So in practice, you are right. In theory -- I'm sorry.
11 In theory, you are right. In practice in this
12 instance, you are wrong.

13 Q. Well, what about the requirements of solvent
14 extraction and thermal desorption for -- that's
15 required under the universal treatment standards under
16 RCRA that we discussed earlier? Was that done here as
17 well?

18 A. No. That was not done.

19 Q. So in practice also, not just in theory, the
20 RCRA land disposal restrictions don't have to be
21 complied with; isn't that correct?

22 A. Let me think about that a minute.

23 MS. TAPE: I'm going to object to the extent
24 that calls for a legal conclusion.

25 A. I would need to -- to review the land

1 whatever you want to call that document we discussed
2 earlier?

3 A. It's the same land disposal restrictions;
4 however, a different portion of the regulations.

5 Q. Can you explain that?

6 A. Under the previous memo that you referred to,
7 that has to do with disposal in off-site facilities.
8 This, because we referred to an area of concern, are
9 on-site restrictions.

10 Q. I see. So the cell is being built in an area
11 that's part of Area 1 already?

12 A. The cell is being built in the area that is
13 contiguous with Dead Creek.

14 Q. Okay.

15 A. It did not refer to whether it was within
16 Area 1 or not. It was contiguous to Dead Creek.

17 Q. So anything contiguous to Dead Creek is
18 considered on-site?

19 A. It can be, yes.

20 Q. Okay. And the benefit of that is that you
21 don't have to comply with the RCRA land disposal
22 restrictions; is that correct?

23 MS. TORRENT: Object to the form of the
24 question as to the term benefit.

25 Q. (By Mr. Hooker) Or the result of calling

1 disposal requirements as to what that really -- what
2 that really means.

3 Q. (By Mr. Hooker) Okay. Well -- well, let's go
4 back. Maybe it will help to go back to the November 8th
5 document and take a look at that for a minute or two.
6 It's page 17 of Turner --

7 MR. HOOKER: Help me out here, Miss Torrent.
8 What's the number?

9 MS. TORRENT: The last one you had?

10 MR. HOOKER: It's the November 8th memo --

11 MS. TORRENT: Okay.

12 MR. HOOKER: -- from Mr. Turner to Solutia.
13 It's 13. It starts on page 16, actually, Mr. Turner.

14 Okay. We'll start with the second sentence, the last
15 paragraph there. RCRA land disposal restrictions will
16 determine whether or not CS-B sediments can be land
17 disposed without treatment. For organic constituents,
18 treatment is presumed to be incineration although
19 thermal desorption and solvent extraction can also be
20 used to achieve the universal treatment standards. And
21 it goes on, and -- are you with me?

22 A. Yes.

23 Q. Okay. And then the document says that many
24 of the sediments were contaminated with volatile
25 organic compounds and semivolatile organic compounds

1 that would exceed universal treatment standards. Is
2 that what that says?

3 MS. TORRENT: Let me just interpose an
4 objection here for the record, Mr. Hooker, to the extent
5 I object to the form of the question to the extent it
6 may call for speculation and it lacks foundation. The
7 document you are asking him to respond to was not
8 generated by him nor received by him.

9 MR. HOOKER: I understand. It was received by
10 him. It was sent to him. We've already established
11 that, Miss Torrent.

12 MS. TORRENT: Fine. It was received by him,
13 but I still object.

14 MR. HOOKER: That's fine.

15 MS. TORRENT: Subject to the objection, you
16 can answer the question.

17 A. You need to restate your question.

18 Q. (By Mr. Hooker) I think I just asked if --
19 let's see. Let me go back. I said the -- did you
20 see -- let me strike the last question.

21 Do you see the portion that I read? I said
22 are you with me?

23 A. Yes.

24 Q. And you said yes. Okay. And to try to save
25 time instead of reading the entire document, I was just

1 Q. (By Mr. Hooker) Let me ask the question
2 again.

3 MS. TORRENT: There wasn't a question there.

4 Q. (By Mr. Hooker) I just got done reading the
5 sentence and you objected.

6 Q. (By Mr. Hooker) Is that what the memo says?

7 A. That's what the memo says.

8 Q. Okay.

9 MS. TORRENT: I -- same objection.

10 Q. (By Mr. Hooker) Does that help refresh your
11 recollection as to whether or not the sediments that
12 were being placed into the containment cell would have
13 had to undergo -- or the land disposal restrictions,
14 solvent extraction, thermal desorption. They didn't
15 have to undergo that before they went in the cell; is
16 that correct?

17 MS. TORRENT: Objection to the form. Calls
18 for a legal conclusion.

19 You may answer the question.

20 A. It does help the -- to help me recollect
21 this, but you're -- you're reading under off-site
22 disposal, and the thing that I am a little bit hazy on
23 is on -- and they don't mention in here is on on-site
24 disposal and whether or not UST is -- UTS -- UTS is
25 applicable for on-site disposal.

1 trying to paraphrase and say is it true that the
2 document indicates that some of the sediments contained
3 volatile inorganic compounds and semivolatile inorganic
4 compounds that exceeded the universal treatment
5 standards. Does the memo say that? I'm not asking if
6 it's true or not. I'm asking if the memo says that.

7 A. Yes. The memo says that.

8 Q. Do you have any reason to believe that
9 information isn't true?

10 A. No.

11 MS. TORRENT: Objection to the form of the
12 question. It calls for speculation.

13 You may answer the question.

14 Q. (By Mr. Hooker) Okay. Then if you go down to
15 the next, there's a bunch of figures in the table here.
16 Go down to the next paragraph, second sentence. While
17 it may be possible to land dispose constituents whose
18 maximum concentrations exceed the UTS, it's not possible
19 to land dispose of constituents whose average
20 concentration exceeds their UTS unless their
21 concentrations are reduced either by thermal desorption
22 or solvent extraction or some other method.

23 MS. TORRENT: Objection to the form of the
24 question; lack of foundation, calls for speculation.
25 You may answer the question.

1 Q. (By Mr. Hooker) Exactly. That's my question,
2 Mr. Turner. By calling the cell an on-site cell, these
3 RCRA standards that we're talking about don't apply;
4 isn't that correct?

5 A. That -- I would have to go and re-review the
6 land disposal restrictions on that.

7 Q. Okay. Well, since we've all agreed to have
8 you back, I'll save that question for another day.

9 MS. TORRENT: We didn't agree to have him
10 back. You --

11 MR. EDGAR: What did I miss? I was only gone
12 for a minute. Did you agree? Did you agree?

13 MR. HAYES: No.

14 MR. HOOKER: Well, let's let the record
15 reflect that previously, Miss Torrent, you and I
16 discussed me ending my questions a little bit early so
17 that some of the other folks could have a go, and then I
18 could finish up when we bring Mr. Turner back. Now
19 you're telling me that I'm not going to have Mr. Turner
20 back.

21 MS. TORRENT: Let me state what we're talking
22 about so that I'm clear.

23 MR. HOOKER: Help me.

24 MS. TORRENT: Absolutely. I'm here to help
25 you. I agree we are going to produce additional

1 documents. To the extent you wish to re-call
 2 Mr. Turner, we'll be happy to consider that.
 3 MR. HOOKER: You know I've made that clear to
 4 you on more than one occasion.
 5 MS. TORRENT: You can make it as clear as you
 6 want. That's the statement I'm placing on the record.
 7 MR. HOOKER: You're not agreeing to produce
 8 Mr. Turner again?
 9 MS. TORRENT: No. We're not agreeing. We're
 10 reserving our right.
 11 MR. GREENBERG: Does that mean Mr. Turner will
 12 be made available tomorrow morning?
 13 MS. TORRENT: No. Mr. Turner will not be
 14 available tomorrow morning.
 15 MR. GREENBERG: No. Wasn't this a deposition
 16 that would go day-to-day?
 17 MS. TORRENT: No. Mr. Wiese agreed --
 18 MR. EDGAR: I noticed it for today because
 19 Miss Torrent told me she would produce him only for
 20 today and he was available only for today. That's what
 21 the notice said.
 22 MS. TORRENT: Mr. Hooker, as a matter of
 23 course, in all likelihood we will produce him, but I
 24 must reserve my rights.
 25 MR. EDGAR: Todd, let's not get hung up on

1 that. I don't think she's got a choice. If you're in
 2 the midst of your questions and you don't get finished,
 3 then something's going to have to give. She's going to
 4 have to bring him back.
 5 MR. HOOKER: I guess that -- I mean, really,
 6 the idea of me finishing early and letting some other
 7 folks --
 8 MS. TORRENT: No, Mr. Hooker. We will not
 9 withhold his re-production on the basis that you didn't
 10 finish your questions at 5:00 or 6:00.
 11 MR. HOOKER: What if I finish at 3 to give the
 12 other counsel --
 13 MS. TORRENT: To allow the other counsel to
 14 interject, that's fine. That's not going to be the
 15 basis.
 16 MR. HOOKER: That's not going to be the basis
 17 for you?
 18 MS. TORRENT: No, it's not.
 19 MR. EDGAR: I just want everybody to know that
 20 I didn't -- I don't have the power to agree that he
 21 shall be produced for one day and one day only. I just
 22 said we'll do it on the 16th with no understanding on
 23 Miss Torrent's part that it would continue the following
 24 day because of her commitments or his or something. I
 25 forget what the problem was, but --

1 Q. (By Mr. Hooker) But as you sit here, you
 2 can't answer that question; is that what you're telling
 3 me?
 4 A. What's the question again?
 5 MR. HOOKER: Well, you know, you're doing a
 6 good job, Miss Torrent.
 7 Could you re-read the question for me, please?
 8 MR. EDGAR: Wait a minute. I can do it.
 9 You better go ahead.
 10 (The preceding question was read back as
 11 requested.)
 12 A. I would again state that I would have to go
 13 back and read the LDR requirements. If you -- if you
 14 read what we have under this section under here, it
 15 pretty much states what -- what you have just stated.
 16 Q. (By Mr. Hooker) I'm sorry. You pointed me to
 17 something in the -- in Turner 17.
 18 A. Yes. On page 8.
 19 Q. Okay.
 20 A. Under ARARs, A-R-A-R, small S.
 21 Q. You're saying the document speaks for itself
 22 that the land disposal restrictions -- it says --
 23 A. It does not invoke any of the LDRs under
 24 RCRA.
 25 Q. Okay.

1 A. I mean, it says it right there.
 2 Q. Okay. That was a long way to get to that.
 3 All right. Let's get the -- let's get the
 4 order on the record here. At least let's have it marked
 5 for identification. Do you need a break? Is that what
 6 you're saying?
 7 A. No. I'm just going to keep these all in
 8 front of me since we're referring to them.
 9 Q. That's probably better.
 10 Mr. Turner, I'm marking for identification
 11 what I think is the May 31st, 2000 Unilateral
 12 Administrative Order.
 13 MR. HOOKER: Take a second to review that, and
 14 Karen, see if there's anything else in there that you
 15 think should be pulled that may have been inadvertently
 16 produced by the government. That's the UAO.
 17 MR. GREENBERG: That's not the AOC?
 18 MR. HOOKER: Right.
 19 Q. (By Mr. Hooker) Mr. Turner, take a minute to
 20 take a look at that. What I want to know, is that the
 21 May 31st, 2000 Unilateral Administrative Order for the
 22 Dead Creek sediment removal project or whatever you want
 23 to call it?
 24 A. It appears to be so.
 25 Q. I guess I'll take that. It is getting late

1 in the afternoon, isn't it?
 2 MR. EDGAR: Do you want to take a break now?
 3 MR. HOOKER: Roger's ready for a break
 4 already, it seems like. Let's see if we can't slog
 5 through a little bit of this before we take a break.
 6 Maybe what I'll do is get through a little bit of this,
 7 and pursuant to what I perceive to be an agreement by
 8 the government, I'll reserve my right to continue my
 9 questioning when the witness is produced.
 10 Q. (By Mr. Hooker) Can you describe for me in a
 11 nutshell, Mr. Turner, what this order requires Solutia
 12 to do?
 13 A. Emergency removal of contaminated sediment
 14 and soils in certain locations and around Dead Creek.
 15 It requires the installation of a 40-millimeter high
 16 density polyethylene liner in Creek Segment B,
 17 Sampling, post-removal sampling as well as a RCRA
 18 compliant containment cell.
 19 Q. Is that cell also TSCA compliant?
 20 A. This merely references RCRA.
 21 Q. Okay. The documents we looked at earlier
 22 referenced a TSCA containment cell. Is that the same
 23 containment cell, or are there two different cells?
 24 A. Same cell.
 25 Q. Oh. Same cell. Okay. So this is -- this

1 general provisions the post-removal sampling results
 2 will be used in the Area 1 EECA and RIFS processes to
 3 determine what, if any, excavated areas in addition to
 4 Creek Segment B may require further remediation under
 5 the EECA process.
 6 Q. So let me back up to my first question, then.
 7 Was there an EECA done for the sediment removal?
 8 A. Not to my knowledge.
 9 Q. Okay. And the EECA that's being done under
 10 the Area 1 AOC is not complete; isn't that correct, as
 11 far as you know?
 12 A. Actually, I think it is complete and in
 13 review with Mike Riboridy.
 14 Q. And when was that submitted to Mike Riboridy,
 15 if you know?
 16 A. I do not know.
 17 Q. Was it this year?
 18 A. I believe this calendar year, yes.
 19 Q. Okay. When you say this calendar year, that
 20 means after January 2002?
 21 A. Yes.
 22 Q. Okay. So it wasn't done before work in Dead
 23 Creek began; isn't that correct?
 24 A. That is correct.
 25 Q. Now, you said that the -- the order required

1 is -- the same cell that the EPA and Solutia had been
 2 talking about since July of '99 now is -- is
 3 encompassed in the order of May of 2000; is that
 4 correct?
 5 A. Yes.
 6 Q. Was there an EECA done -- I think you may
 7 have answered this, but was there an EECA done for the
 8 sediment removal project?
 9 A. There was an EECA done under remedial that
 10 included Dead Creek, but it was not exclusive to Dead
 11 Creek.
 12 Q. Was that EECA done?
 13 A. I believe that EECA is completed.
 14 Q. You think it's completed as we sit here
 15 today?
 16 A. I believe so.
 17 Q. Okay. Do you know when that EECA was
 18 completed?
 19 A. No.
 20 Q. Was it completed prior to the start of the
 21 Dead Creek sediment removal project?
 22 A. Let me correct myself. I do not know if the
 23 EECA has been completed.
 24 Q. Okay.
 25 A. It states in here under jurisdiction and

1 the removal of sediment, is that correct, from Dead
 2 Creek?
 3 A. Correct.
 4 Q. Okay. You just told me there wasn't an EECA
 5 done. Was a risk assessment conducted to determine
 6 which sediments should be removed from Dead Creek?
 7 A. I do not know. Under the remedial process
 8 and the various AOCs and agreements the agency has with
 9 Solutia, I did not keep up with that.
 10 Q. I'm not talking about -- I'm talking about
 11 your project, the project you're the On-Scene
 12 Coordinator for.
 13 A. I know, I know, but the -- the various things
 14 that the remedial program is doing lends itself to this
 15 particular cleanup, and whether they produced a -- a
 16 risk assessment prior to this or not, I do not know.
 17 Q. Okay. So --
 18 A. Go ahead.
 19 Q. Let's go back, then. Let's assume there was
 20 a risk assessment done. Was that used as a basis for
 21 the Unilateral Administrative Order?
 22 A. I did not use it. There were three parties
 23 that helped draft this thing.
 24 Q. Okay.
 25 A. Myself, Mike McAteer, and Tom Martin.

1 Q. If it was used, would it be referenced in
2 here, assuming there was a risk assessment done?

3 A. Yes. If a risk assessment is done, a risk
4 assessment should be included in the Administrative
5 Record.

6 Q. Let's take a look at the Administrative
7 Record index that you have attached to this order. Is
8 there a reference to a risk assessment?

9 A. None that I see, no.

10 Q. Okay. So as we sit here, we don't know
11 whether a risk assessment or you don't know whether a
12 risk assessment was done, and under your authority and
13 your control, no risk assessment was done; isn't that
14 correct?

15 A. That's correct.

16 MS. TORRENT: Let me object to the form of
17 that question to the extent it calls for speculation.
18 Also, Counsel, there may be some difference here between
19 the removal program and the remedial program that you
20 may wish to explore.

21 MR. HOOKER: I understand that. I understand
22 there's a difference. I think we talked a little bit
23 about that earlier, too, when Mr. Edgar brought up the
24 EECA for the RIFS, and we had Mr. Turner explain that
25 that's a totally different -- that's the remedial side,

1 11, okay. What you're telling me is that all the
2 sediment is to be removed irrespective -- strike that.

3 It looks like when I read this all the
4 sediment is to be removed, it says down to native versus
5 non-native sediments. I'm just trying to -- I'm trying
6 to understand how you determined which sediments to
7 remove and which ones to leave in place.

8 A. These numbers right here are estimates that
9 you see on page 11.

10 Q. Okay.

11 A. They're estimates, and it says that right
12 above it. Creek Segment B and Site M contain an
13 estimated volume, and then it goes on after those
14 numbers and says Creek Segment C, D, and E contain
15 estimated volumes. These estimated volumes were used
16 in part to help determine how much is taken out as well
17 as to determine how big to make the containment cell --

18 Q. Okay.

19 A. -- so your design requirements fit directly
20 into these.

21 Q. Okay.

22 A. These four criteria on page 12 are the
23 driving criteria, not the estimates that are on page
24 11.

25 Q. Let's start with a. That's b, the four

1 he's the removal side. This is the Dead Creek removal
2 action.

3 MS. TORRENT: That's correct, but to the
4 extent you're asking him if a risk assessment was done
5 in conjunction with this administrative order, I'm not
6 sure that that requirement is a separate requirement
7 apart from the EECA for Sauge Area 1 and the documents
8 on that. I just want to make sure --

9 Q. (By Mr. Hooker) Let's try it this way. How
10 did EPA develop its performance criteria for the removal
11 of sediments from Dead Creek?

12 A. Under sediments and soil removal
13 requirements.

14 Q. What page are you on?

15 A. It starts on page 11.

16 Q. Okay.

17 A. I'm referring to page 12, small letter b, the
18 four criteria.

19 Q. Okay.

20 A. These are the criteria that were used to
21 determine how much -- how much sediments were removed.

22 Q. Okay. Well, this just says that a certain
23 amount of sediments are supposed to be removed.

24 A. No. B.

25 Q. Right. Well, b is -- let's go back to page

1 criteria. Can you read a on page 11 for me?

2 A. Four objective criteria shall be used to
3 identify sediment, sediments are in quotation marks,
4 subject to removal as follows. Criteria i, small --
5 small i through small iii, shall be employed to make
6 the determination in the first instance. If
7 application of these criteria are not determinant, then
8 criteria iv shall be used. The OSC shall have the
9 authority to require the use of criteria iv at any time
10 during the project. However, in any case, criteria iv
11 shall be employed every 200 feet as a control on the
12 application of criteria i through iii.

13 Q. So now we're to the four criteria that you
14 referenced earlier. Okay. The four -- the first one
15 is -- what's the first one?

16 A. Origin.

17 Q. And it says non-native versus native
18 sediment. Is that what that says?

19 A. Right.

20 Q. Okay. What's the next one?

21 A. Stratigraphy.

22 Q. And the next one is?

23 A. Color.

24 Q. And the last or the fourth criteria is?

25 A. Physical characteristics.

1 Q. Okay. And physical characteristics, it looks
2 like there's some bullet points?

3 A. Unconfined compressive strength less than
4 500 pounds per square foot, torvane shear strength less
5 than 200 pounds per square foot, moisture content
6 greater than the liquid limit, moisture content greater
7 than 60 percent.

8 Q. I don't see here any requirement to -- or
9 any -- any criteria that indicates that certain levels
10 of contaminated sediment should be removed and clean
11 sediment should stay in place.

12 A. That is correct.

13 Q. So there's no performance criteria based on
14 concentration of chemicals or contaminants in the
15 sediment; isn't that correct?

16 A. That is correct.

17 Q. So it's possible that the clean sediment's
18 been removed from Dead Creek? Strike that.

19 It's possible that sediment that doesn't
20 exceed any action levels has been removed from Dead
21 Creek; is that correct?

22 A. It is possible that contam -- that sediments
23 that did not exceed any contaminant action levels have
24 been removed, that is correct.

25 Q. Okay. Let's go back to page 2 in the order,

1 Q. Mr. Turner, are you aware that the Sauget
2 Area 1 sites were proposed for listing on the NPL?

3 A. Yes.

4 Q. Okay. I want to -- I'm going to show you a
5 document that I've marked as Turner Exhibit -- marked
6 for identification as Turner Exhibit 19. This is the
7 Superfund NPL Site Narrative at Listing for the Sauget
8 Area 1 sites that was published I believe -- unless
9 this is the wrong one. Here it is. I put the sticker
10 on the wrong one. September 13th, 2001. What's the
11 date of the order, the UAO to Solutia for the sediment
12 removal?

13 MS. TORRENT: The one that you just handed to
14 him?

15 MR. HOOKER: Yeah.

16 MS. TORRENT: June 21, 1999. The one you just
17 read?

18 MR. HOOKER: We were just looking at the
19 May --

20 MS. TORRENT: May 31, 2000.

21 Q. (By Mr. Hooker) That's it. That's the --
22 okay. We were just reading from that, right, May 31,
23 2000?

24 A. Yes.

25 Q. All right. This is the NPL Site Narrative

1 please. Okay. Once again, I'm not trying to trick
2 you. Go to page 1. It's the -- it's the last word on
3 the bottom sentence of page 1 that begins with this.
4 That's the first word of the sentence. It says this
5 order supplements the UAO or Unilateral Administrative
6 Order issued on June 21st, 1999 to Monsanto and Solutia
7 requiring an investigation and repair of Dead Creek
8 culverts in the Cahokia and Sauget areas. Dead Creek
9 Segments B, open paren, and the area adjacent to CS-B
10 on which the containment cell is to be located, closed
11 paren, C, D, and E as well as Site M comprise the site
12 for purposes of this order. Do you see that?

13 A. Yes.

14 Q. Did I read that correctly?

15 A. Okay.

16 Q. So I'm to understand now that the containment
17 cell is part of the site?

18 A. For the purpose of this order.

19 Q. For purposes of this order. Okay. Now,
20 we've been calling this an on-site containment cell,
21 correct? Okay. Is the containment cell part of Sauget
22 Area 1?

23 A. It is within the confines of Sauget Area 1.

24 Q. It is? As far as you know?

25 A. As far as I know.

1 Listing for Sauget Area 1.

2 MS. TORRENT: Just the first listing or the
3 second?

4 MR. HOOKER: That's the -- that's the second
5 one.

6 MS. TORRENT: Are you asking him to
7 authenticate this?

8 MR. HOOKER: Not at all.

9 MS. TORRENT: Do you want him to look at the
10 whole thing?

11 Q. (By Mr. Hooker) Have you ever seen this
12 document before?

13 A. No.

14 Q. How did you know that the sites were listed
15 in the NPL, were proposed for listing in the NPL?

16 A. I'm sorry. I had to restrain myself. It's
17 pretty common knowledge.

18 Q. Okay. That's fine. Let's see. If I could
19 direct your attention to page 23. Do you see -- it
20 says source number two name, Creek Segment B, do you
21 see that?

22 A. Yes.

23 Q. I just want you to take a minute, read this
24 to yourself, page 23, page 24 and 25, and tell me if
25 you see any reference to the containment cell in there

1 as part of the Sauget Area 1 sites.
 2 A. No. No reference.
 3 Q. There's no reference in here as to -- as the
 4 containment cell being part of the Sauget Area 1 site?
 5 A. No.
 6 Q. Are you aware if the property that the
 7 containment cell was built on was ever considered part
 8 of the Sauget Area 1 site?
 9 A. I have no knowledge of that.
 10 MR. GREENBERG: I'm sorry. Could you repeat
 11 the answer? I didn't hear that.
 12 THE WITNESS: I have no knowledge.
 13 Q. (By Mr. Hooker) All right. Let's go to page
 14 7. The very bottom, conclusions of law and
 15 determinations.
 16 A. What document?
 17 Q. The May 31st, 2000 UAO. It's Turner 17, I
 18 believe.
 19 MR. HOOKER: Is that right, 17? Do I have
 20 that right for the record?
 21 MS. TORRENT: 18.
 22 Q. (By Mr. Hooker) 18. Turner 18. Okay. The
 23 very first entry, can you read that for me?
 24 A. No. 1?
 25 Q. Yeah.

1 You may answer the question if you can.
 2 A. I don't know.
 3 Q. (By Mr. Hooker) What do you mean you don't
 4 know?
 5 A. I don't know if this is -- if the land that
 6 the containment cell is currently sitting on is part of
 7 the facility or not as defined by Section 101(9) of
 8 CERCLA.
 9 Q. Okay. Well, it says Dead Creek and the
 10 impacted areas adjacent to Dead Creek.
 11 A. So?
 12 Q. I'm asking you. Is the -- is the area where
 13 the land of the containment cell is built on the
 14 impacted area?
 15 A. Define impacted for me.
 16 Q. It's in this document. I don't know how to
 17 define it. I'm asking you what you know as the
 18 On-Scene Coordinator for the Dead Creek project.
 19 MS. TORRENT: Let me just object to the lack
 20 of foundation here because I don't think we've
 21 established where this TSCA cell sits, where it's
 22 sighted in relation to where the site as defined is to
 23 be. Perhaps if there's some sort of diagram or
 24 something that would aid in your line of questioning --
 25 Q. (By Mr. Hooker) Answer my question first.

1 A. Dead Creek and the impacted areas adjacent to
 2 Dead Creek is a facility as defined by Section 101(9)
 3 of CERCLA, 42 US Code 9601(9).
 4 Q. As that -- as that is written, that doesn't
 5 include the containment cell area, does it?
 6 MS. TORRENT: Objection to the form of the
 7 question. Calls for a legal conclusion. I think you're
 8 also mischaracterizing what his testimony is, but --
 9 MR. HOOKER: Your objection's noted.
 10 MR. SEPESI: Karen, I didn't hear your
 11 objection. I'm sorry.
 12 MR. HOOKER: I really don't want her to repeat
 13 it, Mr. Sepesi.
 14 MS. WUNDERLICH: We're just asking you to keep
 15 your voices up, please.
 16 Q. (By Mr. Hooker) Let's back up. Did you
 17 prepare this part of the document?
 18 A. No.
 19 Q. Who prepared this part of the document?
 20 A. Tom Martin.
 21 Q. Okay. As it's written, what you just read to
 22 me, it does not include the property where the
 23 containment cell was built; isn't that correct?
 24 MS. TORRENT: Objection to the form of the
 25 question. It calls for a legal conclusion.

1 MS. TORRENT: You can answer the question.
 2 A. You've got to repeat the question. I'm
 3 not -- I'm not grasping it.
 4 MR. HOOKER: Would you re-read the question
 5 for me, please?
 6 (The preceding question was read back as
 7 requested.)
 8 MS. TORRENT: Same objection.
 9 You can answer it if you know.
 10 A. You're going to have to repeat the question.
 11 Q. (By Mr. Hooker) Okay. Well, let's -- let's
 12 follow your counsel's advice and go to Turner No. 2
 13 which is the document there. Could you identify on that
 14 document for me where the containment cell has been
 15 built? We're getting the aid of Miss Torrent's red pen
 16 again.
 17 A. Approximately or --
 18 Q. I'm not going to hold you to it, but I want
 19 an approximate location.
 20 A. Do you want me to draw on it?
 21 Q. Yeah. Draw on it what you think it looks
 22 like from the sky.
 23 MS. TORRENT: For purposes of the record,
 24 Todd, he's marked it as containment cell and noted it as
 25 such.

1 MR. HOOKER: Okay. Great. Thank you very
2 much.

3 Q. (By Mr. Hooker) Would you consider the area
4 the containment cell was built on as an impacted area
5 adjacent to Dead Creek?

6 MS. TAPE: I'm going to object to the extent
7 that Mr. Turner is in the removal program, not the
8 remedial program, and to that extent he won't have
9 knowledge of what the impacted areas are in Sauget.

10 MR. HOOKER: Well, your objection's noted,
11 Counsel, but it's used in his order where he's the
12 On-Scene Coordinator.

13 MS. TAPE: He also noted there were two other
14 people that assisted in drafting this order, one being
15 the Remedial Project Manager and one being counsel for
16 the agency.

17 MR. HOOKER: All right.

18 Q. (By Mr. Hooker) You can answer. You forgot
19 the question, didn't you?

20 A. No. I remember the question. At this point
21 I remember it. It took a while. She is correct in
22 that I do not know what level of sampling the remedial
23 program did in that particular piece of ground. I do
24 know that the level of sampling -- as part of the
25 sighting requirements and as part of the sighting

1 Record and also note that the question I believe calls
2 for -- calls for the witness to disclose deliberative
3 process information, and therefore, I'm going to
4 restrict him from answering the question.

5 MR. HOOKER: First of all, Miss Torrent,
6 deliberative process doesn't cover communications
7 between Solutia and --

8 MS. TORRENT: Are you instructing me on this?

9 MR. HOOKER: What?

10 MS. TORRENT: Are you instructing me on this?

11 MR. HOOKER: It doesn't cover -- my question
12 goes to -- we've talked -- we went through ten documents
13 where Solutia talked about an on-site containment cell
14 from July of '99 to May of 2000.

15 MS. TORRENT: Uh-huh. That's correct.

16 MR. THREE: So what I'm asking is were those
17 discussions -- we talked about in those documents part
18 of the determination that the containment cell was to be
19 considered on site.

20 MS. TORRENT: Yes, and my problem with your
21 question is you're going to the determination of that.
22 That goes to the deliberations, that goes to the agency,
23 that goes to 113J, that goes to the Administrative
24 Record. That's what my problem is. If you'd like to
25 restructure that -- I don't have any problem when you

1 requirements under RCRA or TSCA, we would not be able
2 to put a -- a containment cell in an area with
3 contamination, so the soil itself I would have to say
4 would be -- under the definition that we see here
5 impacted, I would have to say it was not impacted, but
6 I've got -- I've got to preface that and qualify the
7 heck out of that because I'm not the Remedial Project
8 Manager, and I don't know what the RIFS or the EECA did
9 over there.

10 Q. Okay.

11 MR. HOOKER: Good job, Linda. I need to take
12 a break.

13 MS. TORRENT: Do you want to go off the record
14 for a couple -- for ten minutes?

15 MR. HOOKER: Yeah. Let's go off the record.

16 (There was a discussion off the record.)

17 Q. (By Mr. Hooker) Okay, Mr. Turner. Who made
18 the determination that the containment cell was on site?

19 A. It would have been between the three of us;
20 Tom Martin, Mike McAteer, and myself.

21 Q. Did Solutia have -- did Solutia have any
22 input to that?

23 MS. TORRENT: Objection to the form of the
24 question. I'm going to object on the basis of 113J of
25 CERCLA limiting the discovery to the Administrative

1 ask who, what, or where. My objection is to why.

2 MR. HOOKER: I said did Solutia. That's what
3 I asked. I asked who. Is that Solutia?

4 MS. TORRENT: That's fine. Since you're
5 asking that, Mr. Hooker, I will allow him to answer the
6 question.

7 MR. HOOKER: Okay.

8 A. I don't remember whether or not we had
9 specific conversations with Solutia on that topic.
10 However, we've been working within the Superfund
11 program for years, and we very likely could come up
12 with that problem ourselves.

13 Q. (By Mr. Hooker) Was the containment cell
14 built up on property owned by Solutia, if you know?

15 A. Yes. I believe Solutia owns that property.

16 Q. Okay. Let's go back to the order. If the
17 threat or the danger is exposure to contaminants in the
18 creek sediments, right? Are you following me?

19 A. Yes.

20 Q. Okay. Why wasn't performance criteria for
21 chemicals or contaminants in the sediment used as a
22 determination to remove the sediment from Dead Creek?

23 A. The post-removal sampling and the results
24 from that were put into a risk assessment, and that
25 risk assessment which has currently been drafted and is

1 under review is then the ultimate determining factor as
2 to how much sediment gets removed.

3 Q. My question, though, is in terms of this
4 order, no contaminant performance criteria are used to
5 direct in this order that certain sediments, all
6 sediments should be removed down to native soil or
7 native sediment or based on one of the other four,
8 color or criteria, something along those lines.
9 There's no chemical or contaminant specific criteria
10 used.

11 A. And I'll come back to it again. There's two
12 phases in -- in determining how much sediment to
13 remove. There's those four criteria such as are listed
14 out here as the first phase.

15 Q. Okay.

16 A. While we're there, we've got the creek
17 de-watered, how much are you going to dig today. We're
18 going to dig according to these criteria. Then you
19 come back in later and you sample it, and you take all
20 that analytical data and you crunch all those numbers,
21 and then you look at your -- and then you push all
22 those numbers into a risk assessment, and then that
23 tells you how much more needs to come, so it's not --
24 these four that are sitting right here aren't the final
25 answer. It's what is over here that comes out of that

1 risk assessment that's the final answer, and that is
2 based upon contaminant concentrations and comparative
3 risk assessment type criteria.

4 Q. Has that risk assessment been prepared?

5 A. A risk assessment has been prepared and is
6 currently under review.

7 Q. Okay. And that risk assessment has the
8 confirmatory sampling data that you referred to?

9 A. Correct.

10 Q. Earlier when you were talking to Mr. Edgar,
11 you indicated that creek water in Creek Segment B, I
12 think the other creek segments, too, was piped down
13 to -- discharged into Creek Segment E. Is that your
14 recollection?

15 A. Yes.

16 Q. You said there were a series of weir tanks
17 before it was discharged down to E and tended to
18 collect the contaminated sediment so it wasn't
19 discharged downstream; is that correct?

20 A. Correct.

21 Q. Were there any steps taken to try to capture
22 or control the contaminants that were in the surface
23 water before it was discharged to Creek Segment E?

24 A. Beyond the measures that I already explained?

25 Q. Is that the weir tanks?

1 A. The weirs and the sedimentation basins which
2 is the gravel. Beyond those that I've already
3 explained, no.

4 Q. Why wasn't the water required to be
5 discharged to the American Bottoms treatment works?

6 A. Because the sediment -- or I'm sorry -- the
7 de-watering activity and the way it was set up was
8 determined to be adequate and safe for human health and
9 environment, that in conjunction with as you move down
10 the stream, down the creek, you start on the one end
11 and you move down to the other end. So at some point
12 the water that was coming out of Segment B,
13 subsequently Segment C, subsequently Segment D, as we
14 continued to move downstream and excavate was clean
15 water. Any -- any of the --

16 Q. You took surface water samples as you moved
17 downstream?

18 A. Well, it just stands to reason.

19 Q. Well, if you're discharging contaminated
20 surface water from B into E --

21 A. But let me finish.

22 Q. Okay.

23 A. When we first started, there could be --
24 there could be something to be said. Maybe the surface
25 water from B being discharged to E is -- is

1 contaminated. There could be something to be said for
2 that, but through the various techniques we used,
3 sedimentation basins, a series of weirs, we believe
4 that the number -- that it would have been a low risk.

5 Then as we -- as Creek Segment B or C or whatever were
6 cleaned up, then that removed that source of
7 contamination from that piping line. That in
8 conjunction with as you move downstream, E and
9 subsequently F were the last areas to be cleaned up, so
10 any of the waters that went down there and anything
11 that possibly went into those lower creek segments were
12 going to be cleaned up anyway once we got down there.

13 Q. Wasn't that water containing the flood of the
14 Mississippi once it's discharged into Creek Segment E?

15 A. Yes, it would, over quite a distance.

16 Q. But you think the water from Creek Segment B
17 that went to E was probably caught in time when you did
18 the excavation of Creek Segment E; is that what you're
19 telling me?

20 A. No. That's not what I'm telling you.

21 Q. So contaminated water from B was discharged
22 into E and kept flowing down Dead Creek into Prairie
23 DuPont Creek and into the Mississippi?

24 A. What you've got to remember is that
25 contaminated water or the potential for that

1 contaminated water, it had a long ways to go. Anything
2 that was in that water had a chance to settle out
3 within the area that we were going to excavate.

4 Q. And this is the same water that presented an
5 imminent and substantial threat to human health and the
6 environment?

7 A. Yes.

8 Q. It is now 4:00 and I have many more documents
9 to go through, including many paragraphs in this order
10 and the fact -- let me just ask you real quick. Was
11 there a time critical removal action work plan required
12 to be produced or drawn up as a part of this order, the
13 May 31st, 2000 UAO?

14 A. Yes.

15 Q. Okay. Was that done?

16 A. Yes.

17 Q. That was submitted to you by Solutia?

18 A. Yes.

19 Q. Okay. Is there a final time critical removal
20 action work plan?

21 A. Yes. Not in the typical form, though.

22 Q. Please explain.

23 A. They started and they produced a time
24 critical action work plan. We reviewed it. The
25 various agencies reviewed it; Illinois EPA, US Fish and

1 A. There is.

2 Q. Is it something that you can hold in your
3 hands and read through versus something you have to
4 sort of sift through and figure out the different
5 sections because all the comments are in there?

6 A. It's kind of in between.

7 Q. Okay.

8 A. It is something you can hold, but I did not
9 do -- when Solutia sent me replacement pages for the
10 work plan, I did not go back in and replace those pages
11 and pull out the old ones.

12 Q. Okay. So how did you know whether or not the
13 work plan was being complied with?

14 MR. HOOKER: Let the record reflect the
15 witness is pointing to his head.

16 Q. (By Mr. Hooker) Does that mean you have a
17 good memory?

18 A. I -- I know what the work plan says.

19 Q. How big is it again?

20 A. I have a contractor who was also doing
21 oversight for me.

22 Q. Can you tell me again how big the work plan
23 is?

24 A. Oh. I mean, if I was to do replacement pages
25 and actually -- it would be one binder.

1 Wildlife Service, Illinois DNR, US EPA. We submitted
2 comments. In those comments it ended up that that
3 document got broken into three separate documents.

4 Q. Okay.

5 A. Through a series of meetings and negotiations
6 and discussions over those comments, the various
7 response to comments came back.

8 Q. When you say response to comments, that's
9 from Solutia to EPA?

10 A. Correct.

11 Q. Okay.

12 A. After all of that, I've got a pile of paper
13 this big, and on the top of that pile of paper is a
14 letter that says this is approved. However, I never
15 went in and replaced pages.

16 Q. So the only document that you have, then, is
17 Solutia's responses to your comments in how many
18 sections?

19 MS. TORRENT: Well, I think you're
20 mischaracterizing what he said.

21 MR. HOOKER: Well, he can tell me if I am.

22 A. You're mischaracterizing what I said.

23 Q. (By Mr. Hooker) Tell me. Why don't you
24 explain to me -- I mean, I want to understand if there
25 is a time critical removal action work plan.

1 Q. A three-inch binder?

2 A. A five-inch binder.

3 Q. A five-inch binder. That's all in your head?

4 A. You've got to remember. I negotiated this
5 thing and -- and I read it over and I had many
6 conversations about it, and I had a contractor that was
7 providing oversight for me.

8 Q. Does your contractor have a copy of the same
9 work plan that you just described to me?

10 A. I'm sure they have a portion thereof. I'm
11 not sure they would have every single piece of paper.
12 We did provide a portion thereof.

13 Q. So the contractor doesn't have the entire
14 work plan, just a portion of the work plan?

15 A. I -- I'm a little reluctant to characterize
16 exactly how much the contractor has and doesn't have.
17 They have -- they have enough to provide me adequate
18 oversight.

19 Q. Okay. How am I supposed to find out what
20 your contractor has? There's not a complete plan that
21 you gave to them that you can produce from the
22 Administrative Record, that Miss Torrent can produce in
23 discovery in this case?

24 MR. EDGAR: Where is this thing that we're
25 talking about?

1 Q. (By Mr. Hooker) Where is this thing that
2 we're talking about?

3 MS. TORRENT: Counsel, if we could shortcut
4 this, Mr. Turner has produced to me the time critical
5 work plan that you've been discussing. It's in a series
6 of two notebooks and some pages -- papers that are
7 appended by a rubber band. I believe those are the
8 sections he's talking about which are the comments that
9 go back and forth, and they're not this tall.

10 MR. HOOKER: Let the record reflect that
11 counsel has indicated a foot.

12 MS. TORRENT: Let's cut the shit out. Strike
13 the word shit, but it's late in the day.

14 MR. HOOKER: I want to know how big this thing
15 is and how much work for me to review it is.

16 MS. TORRENT: It's going to be as much work
17 for you to review it as it is I because -- I say that
18 because I have not reviewed the document myself.
19 However, we will assemble the document along with the
20 other documents today to the extent we can, i.e., if
21 they're not privileged and you'll get a privilege log.

22 MR. EDGAR: Karen, your voice trailed off at
23 the end. You're going to look at all this stuff and
24 you're going to put it all together --

25 MS. TORRENT: Okay.

1 Ron, can we see these. Well, actually the response was
2 well, lots of different people have answered these
3 questions. It will take us some time to pull the
4 documents together. I have not yet heard whether or not
5 they're available to be reviewed in total.

6 MS. TAPE: My understanding, Jeff, was you
7 asked for a privilege log, and you could look at them.
8 I'm not sure. Maybe I'm wrong. That was my
9 understanding.

10 MR. HOOKER: Can we have the Solutia,
11 Exxon/Mobil fight later on? Let's get back to the time
12 critical removal action work plan.

13 MR. EDGAR: You've got my curiosity piqued.
14 I'm ready to look at this stuff.

15 Q. (By Mr. Hooker) The document itself, though,
16 that you're describing to me, is not a clean copy in the
17 sense that it's just the work plan without any comments;
18 is that correct?

19 A. That is correct.

20 Q. Okay. When was this approved, do you recall?

21 A. I do not recall the date, but it was approved
22 prior to work being commenced, prior to work
23 commencing. However, I've got to clarify that a little
24 bit. Prior to containment cell construction, prior to
25 sediment removal.

1 MR. EDGAR: -- and you're going to give it to
2 everybody?

3 MS. TORRENT: I understand, Linda, Solutia has
4 made these same documents available to the parties.

5 MS. TAPE: I'm not sure who all has been
6 talked to, but I know we've spoken with Exxon/Mobil's
7 counsel and told them those documents would be made
8 available to them.

9 MR. SEPESI: That would be a lot of work to
10 assemble them.

11 MS. TAPE: I'm not sure they're ready, but
12 they're close to being ready, and nobody's asked to come
13 see them. If somebody said two months ago we want to
14 see them, but nobody has asked.

15 MR. EDGAR: Linda, you say you have it or
16 you're about to have it or where are we?

17 MS. TAPE: We have the document. Nobody has
18 asked can we come to your office and look at your
19 documents. When we get that request, we'll have them
20 ready fairly quickly. Until we get that request, we're
21 gradually getting stuff put together.

22 MR. SEPESI: Actually, that's not quite
23 correct. We got their response to our discovery about
24 two weeks ago. I talked to Ron Hobbs and said you've
25 indicated that a bunch of documents can be reviewed.

1 MR. HOOKER: Okay. With that, I am, as we
2 discussed earlier, reserving my right to continue my
3 questions with you and to accommodate Miss Torrent's
4 request to allow some of the other parties to ask some
5 of their questions so we can hopefully alleviate the
6 need to have 20 lawyers in the room the next time we
7 meet. I'll pass the witness, but I'm reserving my right
8 to continuing my questioning of Mr. Turner.

9 MR. SCHULTZ: Who wants to go next? Can I
10 take your place, Todd?

11 MR. HOOKER: Please do.

12 EXAMINATION BY MR. SCHULTZ:

13 Q. Mr. Turner, my name's Rob Schultz. I
14 represent Rogers Cartage Company. Good afternoon.

15 A. Good afternoon.

16 MS. TORRENT: Rob, so I can be of assistance
17 to you since you came to the deposition somewhat after
18 10:00 today, earlier in the deposition today there had
19 been a number of inquiries regarding liability type
20 questions, i.e., what do you know about Wiese, what do
21 you know about some of the other persons in the room,
22 and he responded he did not know. That's not within his
23 purview, so with that, I will --

24 MR. SCHULTZ: Let me just ask it real fast,
25 and then I'll move on to other topics.

1 MS. KNOWLES: That applied to only three
 2 defendants; is that what you said? It was only asked
 3 about three.
 4 MS. TORRENT: That's right. He was only asked
 5 about three defendants. I'm just trying to let him know
 6 what the scope of his --
 7 MR. SCHULTZ: I understand.
 8 Q. (By Mr. Schultz) Mr. Turner, do you have any
 9 information indicating that Rogers Cartage Company
 10 deposited, released or emitted hazardous pollutants in
 11 the Sauget, Illinois area?
 12 A. Other than what is mentioned in the May 31st
 13 UAO, no.
 14 Q. And what exhibit number is the May 31st UAO?
 15 A. Exhibit 18.
 16 Q. Okay. Do you have any information in
 17 addition to what's written in that Exhibit 18?
 18 A. No.
 19 Q. Did you ever witness any effluent from the
 20 sewers of Sauget, Illinois flowing into Dead Creek?
 21 A. No.
 22 Q. For how long were you in the Sauget, Illinois
 23 area in a position to see effluent flowing from the
 24 sewers into Dead Creek?
 25 A. On an intermittent basis or a continual

1 basis?
 2 Q. Continual first.
 3 A. I have never been in Sauget on a continual
 4 basis. I've always only been there on an intermittent
 5 basis.
 6 Q. With regard to an intermittent basis, do you
 7 know how many days you were in the Sauget, Illinois
 8 area in a position where you could see if effluent was
 9 flowing from the sewers into Dead Creek?
 10 A. No, other than to say that I have been
 11 working in the Sauget area in my current position since
 12 the fall of '99. Hold it. The fall of '98.
 13 Q. And from the fall of '98, do your duties --
 14 are they continuing as of today?
 15 A. Yes.
 16 Q. Between the fall of '98 and as of today, do
 17 you know roughly how many days you've been in Sauget,
 18 Illinois? Are we talking 10, 50, 100, 300?
 19 A. Probably along the line of 300.
 20 Q. And in those 300 days you've been in Sauget,
 21 Illinois since the fall of '98, you haven't seen any
 22 effluent going from the sewers into Dead Creek; is that
 23 correct?
 24 A. That's correct.
 25 Q. Now, how many people do you supervise?

1 A. Zero.
 2 Q. Has anyone else from EPA ever told you
 3 they've seen effluent going from the sewers in Sauget
 4 into Dead Creek?
 5 A. Possibly, yes.
 6 Q. Who told you that?
 7 A. I remember conversations with Ken Mensing of
 8 Illinois EPA out of Collinsville subject to Dead Creek.
 9 Q. Now, do you remember when you had these
 10 conversations with Mr. Mensing, or was it one
 11 conversation?
 12 A. It was probably more than one, but not --
 13 maybe just a couple.
 14 Q. Do you remember what year it was when you had
 15 these conversations, or was it over several years?
 16 A. It would have been late '80 or late '98,
 17 late -- or early '99.
 18 Q. And can you tell me what Mr. Mensing said to
 19 you?
 20 A. We just talked about the various Dead Creek
 21 concerns through the years that Illinois EPA had in the
 22 area, just -- as I recall him talking about various --
 23 various effluent pipes through the years going into
 24 Dead Creek. I can't say specifically if he named a
 25 specific company, but I can say that he -- we

1 definitely talked about effluent pipes going into Dead
 2 Creek.
 3 Q. Did Mr. Mensing say that he saw effluent
 4 going from the Sauget, Illinois sewer system into Dead
 5 Creek?
 6 A. I don't remember that.
 7 MR. HAYES: I'm sorry. I missed the answer.
 8 THE WITNESS: I don't remember that.
 9 Q. (By Mr. Schultz) Do you remember what he said
 10 about pipes going into Dead Creek?
 11 A. I don't remember specifics of it other than
 12 he did mention -- I do remember him mentioning through
 13 the years effluent going into Dead Creek from a variety
 14 of sources, but I don't remember the specifics at all.
 15 Q. Did he -- is it your recollection that he was
 16 talking about effluent from various facilities which
 17 had a pipe from their facilities going into Dead Creek?
 18 Is that how you understood it?
 19 A. I think that it was more along the lines of
 20 just various sources of effluent. I don't remember --
 21 I remember -- I remember talking about the -- the dead
 22 dog, the dog that caught on fire, and I think he was
 23 out there and actually saw the dog catch or was out
 24 there shortly thereafter and saw the dead dog, so he
 25 went way back within the -- the history of -- of Dead

1 Creek and the involvement of it.
 2 Q. Do you remember what else Mr. Mensing told
 3 you about effluent going into Dead Creek? Have you
 4 told me your entire recollection of your conversation
 5 with Mr. Mensing on this topic?
 6 A. Yes.
 7 Q. Has anyone else ever told you -- let me put
 8 it this way. Let me begin again. Excuse me.
 9 Has anyone ever told you that they've seen
 10 effluent from the Sauget, Illinois sewer system flowing
 11 into Dead Creek?
 12 A. Not specifically, no.
 13 Q. How about generally?
 14 A. Again, I just refer back to the conversation
 15 I had with Mr. Mensing related to various effluents and
 16 various point sources going into Dead Creek, but
 17 nothing, as I recall, of any specifics.
 18 Q. Did Mr. Mensing tell you he saw effluent from
 19 the Sauget, Illinois sewer system flowing into Dead
 20 Creek at any time?
 21 A. Not specifically.
 22 Q. Generally did he tell you that?
 23 A. He did mention -- I do -- I think he -- in
 24 mentioning this, he did talk about effluents going into
 25 Dead Creek, and the implication to me was he saw them

1 through the years.
 2 Q. Well, let me ask you this. Did he say he saw
 3 them?
 4 A. I don't recall.
 5 Q. Did he say where the effluent was coming from
 6 that he -- that he believed was going into Dead Creek?
 7 A. Specifics, no. Generally, you know, just
 8 effluents, point sources going into Dead Creek.
 9 Q. By effluent and point sources, was he talking
 10 about various companies in the area whose effluent may
 11 have gone into Dead Creek? Is that what he was talking
 12 about with you?
 13 MS. TORRENT: Object to the form of the
 14 question. I believe it's asked and answered and also
 15 calls for speculation.
 16 If you can answer the question, you may.
 17 A. Again, it's -- it's the same response. I --
 18 I don't recall the specifics.
 19 Q. Did he ever say that effluent from Rogers
 20 Cartage Company was flowing in Dead Creek?
 21 A. I don't recall the specifics.
 22 Q. Did you ever see a document in which anyone
 23 stated they saw effluent from the Sauget, Illinois
 24 sewer system flowing into Dead Creek?
 25 A. No.

1 Q. Could you take a look at Exhibit 17. Is
 2 Exhibit 17 a document you prepared?
 3 A. Yes.
 4 Q. Let's look at -- would you look at page 2 of
 5 Exhibit 17 with me, please? Are you there?
 6 A. Yes.
 7 Q. You state in this document that Dead Creek
 8 flows from north to south into the Prairie DuPont
 9 Creek; is that correct?
 10 MS. TORRENT: Let me object to the question to
 11 the extent the earlier testimony was elicited from the
 12 witness that there -- I'm sorry. Strike that. My
 13 apologies.
 14 A. Yes.
 15 Q. (By Mr. Schultz) And then in this Exhibit 17
 16 you divided Dead Creek up into various segments; is that
 17 correct?
 18 A. The division of the various segments was --
 19 was done by -- by Illinois EPA years ago.
 20 Q. But you're using those divisions in this
 21 Exhibit 17, in the report you prepared?
 22 A. Yes.
 23 Q. And is Creek Segment A the northernmost
 24 segment that you discussed in this report?
 25 A. Yes.

1 Q. And then B is directly south of Creek Segment
 2 A?
 3 A. Correct.
 4 Q. And C is directly south of Creek Segment B?
 5 A. Correct.
 6 Q. I'm looking at the second paragraph under the
 7 Section II A. Do you see that paragraph?
 8 A. Yes.
 9 Q. Is this a paragraph you wrote?
 10 A. This was a paragraph that I would be -- would
 11 have been a party to.
 12 Q. Do you know who wrote this paragraph?
 13 A. Specific sentences within this -- within this
 14 paragraph could have come from any number of three
 15 people; myself, Tom Martin, and Mike McAteer.
 16 MR. HAYES: Who was the third one?
 17 MR. HOOKER: McAteer and Martin.
 18 Q. (By Mr. Schultz) Mr. Turner, I think it's the
 19 third sentence in that paragraph which begins for
 20 several years. Do you see that?
 21 MS. TORRENT: Right here.
 22 A. Yes.
 23 Q. (By Mr. Hooker) Would you read that sentence
 24 to yourself, and then I'll ask you a question about it.
 25 A. For several years --

1 Q. You can read it to yourself, or you can read
2 it out loud.

3 First, in that sentence do you know what
4 industrial sources are referred to?

5 A. What do you mean?

6 Q. Okay. In that sentence are you saying that
7 over a period of time, Dead Creek got waste water
8 discharges from industrial sources and from the Sauget
9 sewer system? Is that what you're saying in that
10 sentence?

11 A. Industrial sources, yes, and served as a --
12 as a surcharge basin for the Village of Sauget. If
13 that's what you mean by what you just stated, then yes.

14 Q. Do you know what -- what industrial sources
15 are you referring to in that sentence?

16 A. I would refer to the known industries in the
17 area as being those industrial sources.

18 Q. So the industrial sources you're referring to
19 there are just the industries in the Sauget, Illinois
20 area; is that correct?

21 A. Yes.

22 Q. I also see that you talk about Dead Creek or
23 Creek Segment A serving as a surcharge basin. Do you
24 see that reference?

25 A. I do.

1 happened?

2 MS. TORRENT: Object to the form of the
3 question. He answered he doesn't know.

4 A. No.

5 Q. (By Mr. Schultz) Do you know who does know?

6 A. No.

7 MR. EDGAR: Did you write this document?

8 THE WITNESS: As I stated, I am one of three
9 authors on this. What is typically done in these
10 instances like this, we get referrals for sites from
11 Illinois EPA. Some of this language may have been taken
12 directly out of Illinois EPA documents as well.

13 Q. (By Mr. Schultz) Do you know if that's true
14 or not in this case?

15 A. The longer we go into this, the more likely I
16 am to believe that it is, that these types of
17 conclusions have come from Illinois EPA documents.

18 Q. Are you telling me that the sentence we've
19 talked about here included conclusions from the
20 Illinois EPA documents?

21 A. I'm not specifically mentioning that sentence
22 versus any of the other sentences in this paragraph.
23 I'm just generally looking at this and thinking that
24 Tom Martin or Mike McAteer wouldn't have this direct
25 knowledge, either. I would surmise they wouldn't any

1 Q. What do you mean by that?

2 A. I do not know.

3 Q. Do you know -- let me begin again.

4 That sentence begins for several years. Do
5 you see that?

6 A. Yes.

7 Q. What years are you talking about?

8 MS. TORRENT: Objection to the form of the
9 question to the extent that he can answer this question
10 that doesn't call for speculation. He already said I
11 believe there were two other authors of this document,
12 so it may be an issue of others having input on this.

13 You can answer the question.

14 A. I don't know.

15 Q. (By Mr. Schultz) The next sentence begins
16 when the system became backed up. Do you see that?

17 A. Yes.

18 Q. And by the system, you're referring to the
19 Village of Sauget sewer system; is that right?

20 A. I do not know.

21 Q. Did you -- okay. Do you know when the
22 Village of Sauget sewer system backed up or overflowed
23 into Dead Creek?

24 A. No.

25 Q. Do you know how many times that's ever

1 more than I would, and in these types of circumstances
2 we take this information either from Illinois EPA or
3 maybe from 104E responses or from other depositions or
4 from -- from a variety of sources such as we have
5 mentioned in this -- in this Exhibit 18.

6 Q. Do you know what the source -- the source or
7 sources are of the information we just talked about
8 here?

9 A. I know that -- that a variety of sources were
10 used to produce these documents. If you want me to,
11 I'm sure we could list off or we could find it in -- I
12 think it's in Exhibit 18 and list off all of these.
13 Here we say right here on page 2 of Exhibit 18,
14 Findings of Fact. Such things -- paraphrasing here a
15 little bit, such things have been provided to EPA from
16 various sources including but not exclusively from
17 CERCLA 103 submittals, CERCLA 104(e) responses,
18 expanded site investigation Dead Creek project sites,
19 E&E 1988, Removal Action Plan for Dead Creek site,
20 1987, description of current situation at Dead Creek
21 Project Sites, E&E, '86, site investigations for Dead
22 Creek, CS-B and Sites L and M, I mean, Geraghty &
23 Miller in '92. I can stop there, but we've got 11 of
24 them here, so any one of these documents could have had
25 these types of statements in them.

1 Q. That's possible that any one of those
2 documents could have had the statements we've been
3 talking about here today, correct?

4 A. Correct.

5 Q. Can you tell me which one of those documents
6 did have the statements in them or provided the basis
7 for you for making these statements in this document?

8 MS. TORRENT: Objection to the form of the
9 question. He's going to be limited in his response
10 because he doesn't have those documents in front of him.
11 Is that what you're looking for, him to page through the
12 text?

13 MR. SCHULTZ: I'm looking for an answer.

14 MS. TORRENT: We're trying to give you an
15 answer.

16 MR. SCHULTZ: I don't think so.

17 MS. TORRENT: My objection stands.

18 You can answer the question to the extent you
19 can.

20 A. No.

21 Q. (By Mr. Schultz) You don't know where -- you
22 don't know what the basis is for these statements we
23 just talked about today, do you?

24 A. I don't know which document they came out of.

25 Q. Or if they even came out of a document, do

1 Creek Segment A was blocked off from Creek Segment B by
2 the Village of Sauget. Is that what you're saying?

3 A. That's what that sentence reads.

4 Q. Okay. So going to the top, combining that
5 statement with the statement in the sentence that
6 begins for several years, would you agree with me that
7 after 1968, Creek Segment B was blocked off from Creek
8 Segment A?

9 A. The -- in 1968 the Queeny Avenue culvert
10 which allowed creek water to pass from Creek Segment A
11 to Creek Segment B was permanently blocked by the
12 Village of Sauget. It stands alone.

13 Q. So if wastewater made it into Creek Segment A
14 after 1968, it did not go on to Creek Segment B; is
15 that correct?

16 A. I think -- I don't think you can draw that
17 conclusion from that.

18 Q. So you don't draw that conclusion from there;
19 is that correct?

20 A. I think that it can be drawn -- that that --
21 that several conclusions could be drawn.

22 Q. Tell me what they are.

23 MS. TORRENT: Let me object to the form of the
24 question. This man is not an expert in -- in Dead Creek
25 nor the way in which it flows. He's the On-Scene

1 you?

2 MS. TORRENT: Objection to the form of the
3 question.

4 You may answer.

5 A. No.

6 Q. (By Mr. Schultz) The first sentence we talked
7 about that began for several years; do you see that?

8 A. I'm sorry. Which one?

9 Q. The sentence that begins for several years.
10 The first sentence you and I talked about. I believe
11 it's the third sentence in that paragraph.

12 A. Yes. Okay.

13 Q. That sentence -- in that sentence in this
14 report you make the statement that Creek Segment A and
15 available downstream creek segments, e.g., ones that
16 were not blocked off received wastewater discharges.
17 Do you see that?

18 A. Yes.

19 Q. And then down below you have a sentence in
20 this paragraph that begins in 1968. Do you see that?

21 A. Yes.

22 Q. So have you read the sentence that begins in
23 1968?

24 A. Yes.

25 Q. So in 1968 you state in your report that

1 Coordinator for the removal of the Dead Creek sediment.

2 Subject to that objection, you can answer the
3 questions to the extent you can.

4 A. Okay. Well, I mean, if I -- to surmise, it's
5 either going to flow through the pipe. If it's
6 blocked, then it's going to flow over the land, over
7 Queeny Avenue.

8 Q. (By Mr. Schultz) Did you ever see Dead Creek
9 flow over Queeny Avenue?

10 A. No.

11 Q. Has anyone ever told you they saw Dead Creek
12 flow over Queeny Avenue?

13 A. No.

14 Q. Have you seen any documents that indicate to
15 you that Queeny Avenue -- that Dead Creek ever flowed
16 over Queeny Avenue after 1968?

17 A. No.

18 Q. Is that your phone? Do you need to do
19 anything in response to that page?

20 A. No.

21 Q. After 1968 do you know if any contaminants in
22 Creek Segment B flowed into Creek Segment B and
23 downstream, down Dead Creek?

24 MS. TORRENT: Objection to the form of the
25 question. It calls for speculation.

1 You can answer it if you know the answer.
 2 A. I have no knowledge.
 3 Q. (By Mr. Schultz) When you talked in your
 4 report here about Dead Creek serving as a surcharge
 5 basin, do you know how it served as a discharge basin?
 6 MS. TORRENT: Objection to the form.
 7 MR. SCHULTZ: Surcharge basin.
 8 MS. TORRENT: Objection to the form of the
 9 question. I believe the witness previously answered
 10 that he had no knowledge as to whether or not it served
 11 as a surcharge basin.
 12 Subject to that objection, you can respond.
 13 A. That's correct. I don't know what that
 14 sur -- what that surcharge basin means in this respect.
 15 Q. (By Mr. Schultz) And you don't know what
 16 form -- let me begin again. And you don't know the
 17 structure of the piping or anything in which Dead Creek
 18 could have served as a surcharge basin for the sewer
 19 system, do you?
 20 MS. TORRENT: Same objection.
 21 You may answer.
 22 A. No.
 23 Q. (By Mr. Schultz) Page 3 of your report,
 24 Exhibit 17. At the top of the page there's a sentence
 25 that begins at some point after 1943. Do you see that?

1 A. Yes.
 2 Q. Now, in the report are you stating that after
 3 1943 Creek Segment B was blocked off from Creek Segment
 4 C?
 5 A. That is what that sentence says.
 6 Q. Is that a sentence you wrote, or do you think
 7 one of the other authors contributed it?
 8 A. I don't recall.
 9 Q. Do you know if at any time after 1943 Dead
 10 Creek flowed from Creek Segment B to Creek Segment C?
 11 A. Yes.
 12 Q. When did that occur?
 13 A. I don't know when it occurred, but I know
 14 that when I became involved with the project, the
 15 culvert was open and Creek Segment B was flowing to
 16 Creek Segment C.
 17 Q. Oh. So do you say that anywhere in your
 18 report?
 19 MS. TORRENT: Objection to the
 20 characterization of this as a report. It's an action
 21 memorandum.
 22 You may answer the question.
 23 A. I don't know if it says that anywhere in here
 24 or not.
 25 Q. (By Mr. Schultz) So on page 3 of your report

1 -- well, by your report I'm referring to Exhibit 17. Do
 2 you understand that when I use that phrase, that's what
 3 I'm talking about?
 4 A. Yes.
 5 Q. Okay. On page 3 of your report you note that
 6 after 1943, Creek Segment B was blocked from Creek
 7 Segment C, but you're telling me today that when you
 8 were on site sometime after the fall of 1998, it was no
 9 longer blocked; is that correct?
 10 A. That is correct.
 11 Q. Do you know when it was unblocked?
 12 A. I do not.
 13 Q. At the bottom of page 3 there's a sentence
 14 that begins thereafter. Do you see that?
 15 A. Yes. We're fine.
 16 Q. Do you have any knowledge that Dead Creek
 17 systematically received direct and indirect discharges
 18 from local businesses and the municipality for many
 19 years?
 20 A. I have no direct knowledge because I never
 21 witnessed it. However, I have reviewed these documents
 22 and my knowledge basis is based upon common knowledge
 23 and -- and -- well, common knowledge.
 24 Q. Okay. What's your source of common
 25 knowledge?

1 A. The documents that I referred to earlier as
 2 well as various people that have worked on the project
 3 for years.
 4 Q. Okay. Tell me about your common knowledge
 5 and the source of it.
 6 A. The source of my common knowledge is the
 7 various documents that I've referred to and the people
 8 that have worked there for years and that there was
 9 local businesses and industry that systematically
 10 discharged into Dead Creek.
 11 Q. And was -- do you know what period of time
 12 you're talking about when you say local businesses --
 13 local businesses discharged into Dead Creek?
 14 A. Based upon the site background that I read on
 15 page 3, December 21st, 1928, an easement, paraphrasing,
 16 to improve the drainage in the district, continuing to
 17 paraphrase, so as to make it suitable for disposal of
 18 wastewater, industrial waste, seepage and storm water.
 19 Q. And I'm asking you during what period of time
 20 did Dead Creek systematically receive direct and
 21 indirect discharges from local businesses and the
 22 municipality?
 23 A. My knowledge is based upon what I'm reading
 24 in front of me.
 25 Q. So you don't know -- well, let me ask the

1 question again about what's in front of you. During
2 what years did Dead Creek systematically receive direct
3 and indirect discharges from local businesses and the
4 City of Sauget?

5 A. Based upon what I see in front of me -- I'm
6 not a local historian, but based upon what I see in
7 front of me, from 1928 until whatever current date.

8 Q. Are you saying the discharges continue today?

9 A. No. I'm not saying that at all. I don't
10 know -- I don't know what a current date would be.

11 Q. Do you know when the discharges stopped?

12 A. I do not.

13 Q. What you're saying is that your knowledge
14 from what's in front of you is that they -- they
15 started around 1928?

16 A. Based upon what I see in front of me.

17 Q. And you don't know when they stopped?

18 A. I do not.

19 Q. But they don't continue today; is that right?

20 A. I do not know.

21 Q. Well, when you were out there, did you see
22 anybody discharging into Dead Creek?

23 A. No.

24 Q. Did anybody who worked with you say they saw
25 anybody discharging into Dead Creek after the fall of

1 1998?

2 A. No.

3 Q. When was the last time somebody told -- well,
4 excuse me.

5 When was the last time somebody saw a
6 discharge into Dead Creek of pollutants or effluent that
7 was told to you?

8 A. I do not have that information.

9 Q. Did you ever have that information?

10 A. No.

11 Q. If I wanted to find out the basis and the
12 support for the statements concerning Dead Creek and
13 the discharge of the Village of Sauget effluent into
14 it, who should I speak with?

15 A. This is -- I don't have any direct knowledge
16 of it and I'm just going to be speculating, and I don't
17 know if that's fair.

18 MS. TORRENT: Don't speculate. Nobody wants
19 you to speculate. Nobody wants you to speculate.

20 A. I don't have any direct knowledge of who to
21 talk to about it.

22 Q. (By Mr. Schultz) In Exhibit 17 you recite a
23 lot of the pollutants and hazardous materials and their
24 concentrations which you found in Dead Creek in the
25 sediment. Do you see that?

1 A. What page?

2 Q. For instance, page 4.

3 A. Yes.

4 Q. Do you know if Rogers Cartage Company
5 contributed any of the hazardous materials and
6 pollutants that you found in Dead Creek?

7 A. I have no direct knowledge of that.

8 MR. SCHULTZ: Thank you. I'll pass the
9 witness.

10 MR. EDGAR: Next?

11 MR. GREENBERG: My guess is I have 30 minutes
12 to 45 minutes. I'll go. If somebody wants to go
13 shorter, they can go shorter.

14 MS. TORRENT: Anybody else?

15 MR. HAYES: I only have one question.

16 EXAMINATION BY MR. HAYES:

17 Q. My name is Dan Hayes. I represent the
18 Village of Sauget.

19 Before you were asked a question as to where
20 you would find the answers as to the information you had
21 in Exhibit 17 about, you know, overflow into Dead Creek,
22 etc., and you said you didn't want to speculate. The
23 only question I have is where would you start to try to
24 find that information if you were to -- if you were to
25 ask somebody? If not you, then who? McAteer?

1 A. McAteer's information is going to be -- I

2 would presume is going to be the same information as
3 mine. Maybe Illinois EPA. They've got the most
4 history out there.

5 MR. HAYES: Okay. That's all I have.

6 MR. EDGAR: Can I see the document you've been
7 talking about, the action memo, 17? Thank you.

8 EXAMINATION BY MR. GREENBERG:

9 Q. Mr. Turner, my name is Richard Greenberg.

10 I'm an attorney for Blue Tee Corp who is successor in
11 interest to the American Zinc Company.

12 Are you familiar at all with the American Zinc
13 Company?

14 A. Is that in operation right there on Route 3
15 right now?

16 Q. It is not in operation on Route 3 right now.
17 It ceased operations on Route 3 in approximately 1971.

18 A. It's Big River Zinc.

19 Q. Yeah.

20 A. I'm not aware.

21 Q. You never conducted any investigation to
22 determine if the American Zinc Company was responsible
23 for any of the contamination in Sauget, correct?

24 A. That is correct.

25 Q. To follow up, do you have any information

1 that American Zinc was the source of any contamination
2 in Sauget?

3 A. I have no direct knowledge.

4 Q. How about indirect knowledge?

5 A. No.

6 Q. As On-Scene Coordinator, was part of your
7 responsibility to collect evidence to allow the
8 identification of PRPs for the Sauget Area 1
9 remediation projects?

10 A. No.

11 Q. Who, if anyone, had that responsibility, to
12 your knowledge?

13 A. That would have been with the remedial
14 program.

15 Q. Who within the remedial program would have
16 had that responsibility?

17 A. It would have ultimately rested with Mike
18 McAteer. I'm not sure whether or not he had an
19 enforcement specialist involved or not and then with
20 Tom Martin as well.

21 Q. In terms of doing your work with respect to
22 either the culverts or the sediment project, did you
23 take any action to attempt to collect materials or
24 evidence that would identify the source of the
25 contamination?

1 A. No.

2 Q. Did you charge the contractor to do that?

3 A. No. To -- I'm sorry. One exception to that.
4 We referred to this pipe that was -- appeared to be
5 coming out of Site G. When that pipe was uncovered, I
6 did take a sample of the effluent coming out of that,
7 but that was not taken as a -- as a -- as a means to
8 identify a PRP. It was taken more to identify what was
9 our chemicals of concern and hazards in dealing with
10 that pipe.

11 Q. When you say you took a sample, was there
12 effluent or some material coming out of the pipe when
13 you sampled it?

14 A. Yes.

15 Q. What were the results of that sample?

16 A. I do not recall.

17 Q. Do you remember if there were any compounds
18 found in the sample that were above action limits as
19 you previously defined the term?

20 A. I -- I don't recall.

21 Q. Did you reach any conclusions as to the
22 source of the material coming out of that pipe?

23 A. I did not reach any conclusions.

24 Q. How about any hypothesis or speculation? Did
25 you have any -- did you come to any determination as to

1 from whom that material emanated?

2 A. No, I did not. I didn't even think about --

3 when I -- when I reviewed the results, I didn't look at
4 it and think about where did this -- what company would
5 this have come from. I merely looked at the results
6 from a human health and environmental standpoint.

7 Q. And as you sit here today, do you recall
8 whether or not there was a concern for human health and
9 the environment based on the sample results?

10 A. As I sit here today, I do recall that those
11 results were of concern. I don't remember if they were
12 screamers. I don't think there were any screamers in
13 it, but I don't remember off the top of my head.

14 Q. Okay. I've got to ask you what you mean by
15 screamers.

16 A. Extremely high levels.

17 Q. How about any levels you recall being above
18 an action level?

19 A. I don't -- I don't remember.

20 Q. Where would I find information pertaining to
21 the sample that was taken of the material at Site G?
22 I'm sorry. The material that was emanating from the
23 pipe on Site G?

24 A. In my files.

25 MR. EDGAR: If we asked you to look for it,

1 could you find it because we're going to ask.

2 Q. (By Mr. Greenberg) Yeah. I want to do it the
3 easy way, not the hard way.

4 A. I probably could find it.

5 MR. EDGAR: Okay. Will you ask, Richard?

6 MR. GREENBERG: Counsel, would you ask
7 Mr. Turner to provide you with that document or any
8 information regarding that sample and provide that to
9 us?

10 MS. TORRENT: I would, and just so that the
11 record is clear, I think earlier you testified today
12 that there were two pipes found.

13 MR. GREENBERG: Yeah. I'm coming to that.

14 MS. TORRENT: One on the east and one on the
15 west. Which one was it, east or west?

16 THE WITNESS: Coming out of Site G, so it
17 would have been the west.

18 Q. (By Mr. Greenberg) And while we're on the
19 pipe, I do want to cover this. Did you learn any other
20 information regarding the pipe emanating from Site G
21 other than you uncovered it and you took one sample?

22 A. No. I do remember having a conversation with
23 Sam Borries about that particular pipe, and I can't
24 remember if he was aware of that pipe or -- or not
25 aware of that pipe, so we really didn't investigate the

1 pipe too much.

2 Q. So when you say too much, did you try to
3 determine if that was part of the Village of Sauget
4 sewer system?

5 A. We did not.

6 Q. In looking at the pipe, you couldn't tell
7 whether it was part of the sewer pipe or a pipe for
8 some other purpose?

9 A. I could not tell that.

10 Q. Let's flip over to the pipe on the east side.
11 Did you take -- when you were on site, did you ever see
12 any material emanating from that pipe?

13 A. No.

14 Q. Did you make any investigation as to the
15 purpose of that pipe?

16 A. I did not. However, Solutia's contractor
17 did, and they investigated that pipe, and then they
18 informed me about it.

19 Q. What did they tell you?

20 A. That it was coming from a -- this is not
21 going to show the -- oh, yes, it will. It was coming
22 from this building right here. I don't know what that
23 company is, and that they told me or they told
24 Solutia's contractor -- and it was coming right out,
25 right about here, I mean, directly from the building.

1 They said that that was a -- a drain line from a drain
2 in their floor.

3 Q. Would you go ahead since we're using Exhibit
4 2 and maybe mark that site with an X and then perhaps
5 have an arrow running to it? So we're clear, where
6 you've marked with an X on Exhibit 2, that is where the
7 pipe on the east side of Dead Creek was emanating from,
8 correct?

9 A. Yes.

10 Q. And you're now writing pipe on east side.
11 Just so we're clear, where you marked an X appears to
12 be adjacent to a building, correct?

13 A. That is correct.

14 Q. And it was your understanding from the
15 contractor that the pipe emanated from the building
16 adjacent to the X that you marked on Exhibit 2,
17 correct?

18 A. Correct.

19 Q. And at this time you don't recall who owned
20 that building or who was operating at that site?

21 A. I do not recall.

22 Q. Did you make -- did the contractor make any
23 judgment as to whether or not that was connected to the
24 village sewer system in any way?

25 A. They did not make that judgment.

1 MR. EDGAR: They didn't?

2 THE WITNESS: They did not.

3 Q. (By Mr. Greenberg) In the course of your
4 work, did you come upon any drums, either you or your
5 contractor? When I say you, sir, I mean both not only
6 you personally but people working under your
7 supervision. To your knowledge, were any drums
8 identified in the course of your work at Dead Creek?

9 A. Not to my knowledge.

10 Q. Okay.

11 A. To further --

12 Q. Go ahead. I'm sorry. I didn't mean to
13 interrupt you.

14 A. To further clarify that, they're Solutia's
15 contractor, and they're not working for me or under my
16 direction.

17 Q. But you're the OSC, so you're supervising the
18 overall activities at Dead Creek, correct, in terms of
19 the remediation?

20 A. Yes and no. I mean, I'm not a supervisor,
21 so -- so --

22 Q. Let me ask it this way. During your work as
23 an OSC, did it come to your attention that any drums
24 were found in Dead Creek?

25 A. No.

1 Q. During your work at Dead Creek, did it come
2 to your attention that any materials were found in Dead
3 Creek that appeared to originate from any sources in
4 the Sauget area? I'm talking about scraps, waste,
5 bags.

6 A. No.

7 Q. During the excavation work with respect to
8 the project, were there any materials found whatsoever
9 that, to your knowledge, could be identified attributed
10 to any source that -- for those materials?

11 A. No.

12 Q. Let's go to Exhibit 17 again. This is an
13 action memorandum that appears it came from you; is
14 that correct?

15 A. That is correct.

16 Q. And this was submitted to you first through
17 Richard Karl who then submitted it to Mr. William Munro?

18 A. Correct.

19 Q. And Mr. Karl signed off on this document,
20 correct?

21 A. Correct.

22 Q. And I think -- I take it you also signed off
23 on the document before it was submitted to Mr. Karl?

24 A. Yes. However, a signature such as -- such as
25 Mr. Karl's on there you won't find. It would be

1 somebody who would either sign for me or I would have
 2 sent maybe an e-mail saying I agree with this.
 3 Q. But in fact, that's my point, sir. Before
 4 the Exhibit 17 was issued, you approved the document;
 5 is that right?
 6 A. Yes.
 7 Q. And that was in your role as On-Scene
 8 Coordinator for Emergency Response Branch - Section 2?
 9 A. Yes.
 10 Q. I don't want to repeat the questioning that
 11 just went on, but I do want to make sure I have a
 12 complete understanding of your knowledge. I'm going to
 13 turn again to page 2, particularly, the second
 14 paragraph under letter A. You've already indicated
 15 that at this time you can't identify the industrial
 16 sources that according to this report directly
 17 discharged to Dead Creek, correct?
 18 A. I can identify them such as are listed in
 19 these various documents right here.
 20 Q. Okay. Can you tell me, then, who discharged
 21 directly into Dead Creek as reported on page 2 of
 22 Exhibit 17?
 23 A. I am reading from page 6 of Exhibit 18. No.
 24 5. Do you want me to read them all?
 25 Q. Yeah. Please.

1 A. There's dozens of them. Creek Segment A.
 2 Monsanto Company/Solutia, Cerro Copper. I'm going to
 3 paraphrase a little bit. I'm not going to put
 4 incorporated.
 5 MS. CONSTANCE: Can you speak up?
 6 A. Cerro Copper, Amax Zinc, Mobil Oil, Ethyl
 7 Petroleum, Rogers Carthage, Sterling Steel, Darling
 8 Fertilizer, the Village of Sauget, Cardinal
 9 Construction, and Olin Corporation.
 10 Creek Segment B. Monsanto/Solutia, Midwest
 11 Rubber Reclaiming, Midwest Rubber Trustees Stanley
 12 Keitman, Richard M. Cohen, Morris Weissman, Cerro
 13 Copper, Mobil Oil, Rogers Carthage, Sterling Steel,
 14 Darling Fertilizer, Ruan Transportation, Waggoner &
 15 Company, Industrial Salvage Disposal, Sauget -- Sauget &
 16 Company, Paul Sauget, and Olin. Do you wish me to go
 17 on.
 18 Q. (By Mr. Greenberg) I want you to stop there
 19 so we can just close the loop on this. Going back to
 20 the parties you identified as discharging in Creek
 21 Segment A, that's based not upon any personal knowledge
 22 that you have, correct?
 23 A. That is correct.
 24 Q. This is based upon information that was
 25 compiled in the files of the Environmental Protection

1 Agency or the Illinois EPA, correct?
 2 A. Correct.
 3 Q. Is there a document that identifies the
 4 source of the information for the identification of
 5 each of the generators in that report?
 6 A. I would say that there is not one document
 7 but the series of documents such as I referred to
 8 earlier.
 9 Q. And we don't have to go through that list
 10 again, but you're talking about the 104(e) responses
 11 and related information compiled by either EPA or IEPA?
 12 A. Correct.
 13 Q. And would it be your understanding,
 14 Mr. Turner, that any information that EPA was relying
 15 upon in preparing Exhibit 18 would be maintained in the
 16 EPA files and not just in the Illinois EPA files?
 17 A. Some of the documents referred to on page 2
 18 and subsequently page 3 of Exhibit 18 are listed in the
 19 Administrative Record. Others of them are not listed
 20 in the Administrative Record. Those other documents
 21 would be either found in Illinois EPA files or US EPA
 22 files.
 23 Q. So it may well be that there are documents in
 24 Illinois EPA files that are not found in the EPA files.
 25 Is that what I just heard you say?

1 A. That's possible.
 2 Q. As far as the identification of any of the
 3 other industrial sources who discharged directly into
 4 Dead Creek, that would also be found in Exhibit 18; is
 5 that right?
 6 A. Correct.
 7 Q. Okay. And you have no other sources of
 8 information or knowledge of the identity of anyone
 9 other than -- anyone else who discharged directly into
 10 Dead Creek other than what's set forth on Exhibit 18?
 11 A. That is correct subject to or except for the
 12 one conversation or the one, possibly two conversations
 13 I had with Ken Mensing of Illinois EPA.
 14 Q. And you've already described those --
 15 A. We've already described --
 16 Q. -- conversations, correct?
 17 A. Correct.
 18 Q. And so we're clear, my recollection is when
 19 you described those conversations, Mr. Mensing did not
 20 identify particular generators; is that right?
 21 A. I do not remember if he did or did not.
 22 Q. Let me move on a little bit. On page 2 in
 23 the same paragraph, it says on several occasions Creek
 24 Segment A was dredged and contaminated segments were
 25 disposed of onto adjacent property, Site I of Sauget

1 Area 1 site. Do you see that information?
 2 A. I do.
 3 Q. Did that occur while you were On-Scene
 4 Coordinator, the dredging of Creek Segment A and
 5 disposal of material on Site I?
 6 A. Did that occur while I -- since I've been an
 7 On-Scene Coordinator --
 8 Q. Right.
 9 A. -- or since I've been an On-Scene Coordinator
 10 associated with Sauget Area 1?
 11 Q. No. I meant Dead Creek.
 12 A. No.
 13 Q. When was the last time, to your knowledge,
 14 that Creek Segment A was dredged and material was
 15 placed in Site I?
 16 A. Based upon what I read in front of me, it was
 17 in 1990. However, according to this, it was not placed
 18 in Site I. I have no direct knowledge as to when Site
 19 I received any --
 20 Q. Right.
 21 A. -- waste materials.
 22 Q. So I'm being clear, I'm not talking about
 23 when Cerro Copper did its remediation work with respect
 24 to Creek Segment A. Is it your understanding when
 25 Cerro Copper did its work, it did not dispose of those

1 materials in Site I; is that correct?
 2 A. That's correct.
 3 Q. So let's go to an earlier time. I'm just
 4 trying to get your knowledge, sir. When -- what
 5 information do you know that supported the statement
 6 that you made in your report that Creek Segment A was
 7 dredged and material was placed in Site I?
 8 A. I have no direct knowledge of that other than
 9 what I'm reading.
 10 Q. I'm sorry?
 11 A. Other than what I read right here.
 12 Q. Okay. Well, when you put this statement in
 13 your report, what were you relying upon?
 14 MS. TORRENT: Let me just object to the form
 15 of the question. There were other authors to this
 16 document that may have more intimate knowledge about the
 17 files of EPA, and from my knowledge of the files at EPA
 18 that we produced to you, that information is within
 19 those files.
 20 Q. (By Mr. Greenberg) Again, Mr. Turner, can you
 21 tell me what you relied upon for support for this
 22 statement in Exhibit 17?
 23 A. I don't recall.
 24 Q. Do you recall ever speaking with anyone who
 25 told you that Creek Segment A had been dredged and

1 material had been placed in Site I? As you sit here
 2 today, you don't recall what documents you may have
 3 reviewed that gave you that information?
 4 A. Correct.
 5 Q. And do you know if any of your -- do you
 6 recall your associates being responsible for this
 7 information?
 8 A. I don't know one way or the other. Mike
 9 McAteer was the RPM on this site for a long time, a
 10 long time before I came along, and Illinois EPA was
 11 working on Dead Creek for many, many, many years, and
 12 where they came up with that, I don't know.
 13 Q. Okay. Are you familiar with Site I?
 14 A. No.
 15 Q. Do you know where it's located?
 16 A. No.
 17 Q. Did you make -- did you or anyone under your
 18 supervision -- let me strike that.
 19 Did you make any investigation to determine
 20 whether or not Site I was -- strike that. I'll come
 21 back to that.
 22 Let's turn to page 3 for a minute.
 23 MS. TORRENT: Keep your voice up when you
 24 answer.
 25 THE WITNESS: I'll try.

1 Q. (By Mr. Greenberg) Would you look at the
 2 paragraph on Site N?
 3 A. Yes.
 4 Q. There's a statement here that the pit is
 5 hydraulically connected to Dead Creek through an 8-foot
 6 opening at the southwest portion of the pit. Do you
 7 see that?
 8 A. Yes.
 9 Q. Is that something you personally observed?
 10 A. Yes.
 11 Q. Did you make any tests to -- can you tell me
 12 what you meant by the term hydraulically connected?
 13 A. When the waters within Dead Creek would go
 14 up, the waters within Site M would go up. When the
 15 waters within Dead Creek would go down, the waters
 16 within Site M would go down.
 17 Q. Did you make an investigation to determine if
 18 any other portions of Sauget were hydraulically
 19 connected to Dead Creek?
 20 A. Of Sauget?
 21 Q. Correct. The areas bordering Dead Creek.
 22 Did you determine whether or not there were other areas
 23 besides Site M that were hydraulically connected to
 24 Dead Creek?
 25 A. No, but let me clarify this a little bit.

1 Site -- when we refer to Site M being hydraulically
2 connected, that's surface water. Subsurface or
3 groundwater, whether or not groundwater is
4 hydraulically connected to -- to Dead Creek is a
5 different issue. Surface water, to answer your
6 question, no.

7 Q. So I take it, then, as far as -- sitting here
8 today, to your knowledge, there are no other portions
9 of the Sauget sites that are hydraulically connected to
10 Dead Creek other than Site M; is that right?

11 A. From a surface water standpoint, I can answer
12 a definitive yes to that. From a groundwater
13 standpoint, I cannot answer that.

14 Q. I'm really just asking about surface water.
15 So surface water from Site M is hydraulically
16 connected. As far as any other sites, to your
17 knowledge, they are not hydraulically connected,
18 correct?

19 A. Correct.

20 Q. Do you have any knowledge whether Dead Creek
21 ever ran north of Creek Segment A?

22 A. No.

23 Q. You have no knowledge one way or the other?

24 A. Correct.

25 Q. You were asked some questions earlier today

1 regarding action levels, and I think you told me your
2 understanding that -- you told the person asking you
3 questions that the action levels refer to certain
4 levels -- strike that. Let me ask it.

5 Would you repeat again what your understanding
6 of action levels means?

7 A. An action level is a numeric -- it is a -- it
8 is a number that if the sample results of a particular
9 media are greater than or less than that number,
10 certain actions would have to occur. If it's greater
11 than whatever that action level is, then it means that
12 it is an actionable level. If it's less than, then it
13 is a non-actionable level. That varies according to
14 media.

15 Q. And to be a little more concrete, if a
16 compound is found to be above an action level, it may
17 be deemed to be a hazardous substance, correct?

18 A. Correct.

19 Q. For Exhibit 17 you use the ecotox threshold
20 for action levels, correct?

21 A. That is what we refer to in this document.

22 Q. Did you also consider any other action levels
23 other than ecotox thresholds to determine whether a
24 particular sample result showed hazardous material or
25 not?

1 A. For this action memo, no.

2 Q. How about in general in performing your work
3 as On-Scene Coordinator? Did you consider other levels
4 other than the ecotox thresholds?

5 A. For Dead Creek?

6 Q. Right.

7 A. Under this action memo, no.

8 Q. How about in performing any of your work?
9 Did you use any other action levels other than ecotox
10 thresholds?

11 A. Routinely I do.

12 Q. What else do you refer to when you routinely
13 look at other action levels?

14 A. I can look at any -- any number of these, any
15 of these numbers and pretty much tell you whether or
16 not it's going to be above an action level or not.

17 Q. I guess that's what I'm trying to get at.

18 For example, do you look at the action levels
19 determined by the Illinois EPA for what constitutes a
20 hazardous material?

21 A. Illinois EPA TACO; is that what you're
22 referring to? I will consider those, but those would
23 be considered an ARAR under our -- under the system.

24 Q. Okay. When you say ARAR, you're referring to
25 what?

1 A. Applicable or relevant and appropriate
2 requirement.

3 Q. Is that for determining cleanup levels,
4 correct?

5 A. TACO would be considered in coming up with
6 cleanup levels, yes.

7 Q. And I take it from your answer that you do
8 not agree that the use of those levels is appropriate
9 for determining if there are hazardous substances at a
10 site?

11 A. No. That is not correct. No. A TACO is
12 very much a viable option to use.

13 Q. To determine whether or not a material is
14 hazardous or not, correct?

15 A. To determine whether -- we really use TACO as
16 a cleanup to -- as a cleanup number, not to determine
17 whether it's actionable or not. We use it more to
18 determine how clean is clean, how much are we going to
19 clean up.

20 Q. And did you -- in preparing Exhibit 17, did
21 you consider the TACO cleanup levels?

22 A. No.

23 Q. Why not?

24 A. Well, actually, yes, we did. We did look at
25 them. However, the ecotox numbers were lower than the

1 TACO numbers.

2 Q. And why did you use the ecotox levels rather
3 than the TACO cleanup levels for this purpose?

4 A. We were in discussions with the Illinois DNR
5 and US Fish & Wildlife Service about the sensitive
6 nature of the -- of the -- of the area from an
7 endangered species standpoint and from a broader
8 picture from just a species standpoint, and this was
9 determined to be more protective to the variety of
10 species that live along Dead Creek.

11 Q. And these -- referring to the ecotox
12 threshold, these are more stringent, is that correct,
13 than the TACO levels?

14 A. Yes, but what you're drawing a conclusion to
15 is that these -- these ecotox threshold numbers are --
16 are what was driving it. I mean, that -- that is --
17 that is part of what was driving it, but any number of
18 these compounds when you look through them exceed --
19 exceed human health threats that aren't even listed on
20 here.

21 Q. All right. Let's see if we can look at that
22 in a little bit. When you say exceed human health
23 threats, what are you referring to?

24 A. For example, lead. Let's see if we even have
25 lead on here.

1 is highly toxic. If I got mercury at a level that is
2 slightly over an action level, that means a lot more to
3 me than manganese which is twice the action level.

4 Q. So -- you just saved me a lot of time. So in
5 terms of determining what is -- which compounds and
6 what results are important, you consider one, the
7 toxicity of the material, and second, the order of
8 magnitude by which they exceed an action level?

9 A. Yes.

10 Q. Those are the two. Are there other
11 parameters, or are those the two parameters you
12 consider?

13 A. No. Then we compare it to potential exposed
14 populations, the threat to exposed populations, I
15 should say with that, and if it's in a day care, that
16 means a lot more to me than if it's in a, you know,
17 back 40 and nobody's there.

18 Q. So let's bring it home to the Sauget area
19 because what we're dealing with here is the same
20 general area. Given that we're working in the Sauget
21 area, then, with its characteristics with which you're
22 familiar, are the two drivers in determining whether or
23 not a particular result is a screamer would be the
24 toxicity of the material as well as the order of
25 magnitude by which it exceeds an action level; is that

1 Q. You do.

2 A. Lead. We've got lead. I'm looking at the
3 bottom of page 5 at 1910 parts per million. Lead in
4 soils -- the cleanup level for lead in soils is 400
5 parts per million. I realize that this is in
6 sediments, and the sediment number I would have to look
7 at some tables to see what our human health sediment
8 criteria would be for -- for lead, but that's --
9 typically what I would do is I would look at these
10 numbers and compare them to a variety of tables that I
11 carry with me and -- and help to get direction that
12 way.

13 Q. That's sort of what I'm trying to get at.
14 Looking at some of these levels to determine the extent
15 of contamination, when you view sample results, do you
16 look at the -- whether or not they exceed a particular
17 action level and the amount by which they exceed an
18 action level?

19 A. I do look at whether or not they exceed, and
20 that's kind of what I meant when I said screamers. If
21 there is something that is an order of magnitude above
22 an action level, then that means a heck of a lot more
23 to me than something that is five parts per million
24 above an action level, but I also compare it to what --
25 the toxicity of the compound, and I know that mercury

1 correct?

2 A. I would add again exposed population, and as
3 you move out of Sauget and you're into Cahokia, you go
4 right down the middle of all those residence --
5 residential areas and the potential exposure to kids
6 who like to play in creeks, kids who will go and fish
7 in those creeks. Creek Segments C through E were not
8 fenced at all, completely open. Behind -- I mean,
9 there's any number of exposure routes.

10 Q. And I'm not -- and Miss Torrent will be all
11 over me if I was here trying to challenge whether or
12 not a remedy was appropriate here. I'm not trying to
13 do that. I'm just trying to understand the nature of
14 the results that are reflected in your action
15 memorandum, so I'm with you. When we talk about --
16 what I'm trying to do, though, is it sounds like we
17 have three different parameters we're focusing on in
18 terms of evaluating the level of contamination; the
19 toxicity of the compound, the order of magnitude by
20 which it exceeds an action level, and then you said the
21 general nature of the neighborhood where the compound
22 may be found; is that right?

23 A. Yeah. I -- we -- we look at it from an
24 exposed population.

25 Q. Exposed population. In dealing with exposed

1 populations for purposes of Sauget, is it relatively
2 the same throughout the area or it's different?

3 A. It varies.

4 Q. And I take it it varies the further down Dead
5 Creek, the more closely associated it would be with an
6 exposed population, correct?

7 A. Segment B is clearly an industrial type
8 exposure route, industrial or even agricultural except
9 when you get around M, then you've got residential
10 scenarios. As you move downstream, you get both the --
11 I'm so used to saying bugs, bees, and bunnies, I don't
12 know the other words to say any more. You get both the
13 ecological exposure as well as the human health
14 exposure. Then when you get all the way down to F, you
15 get more into the ecological exposure and a lot less
16 into human health even though F has lots of -- lots and
17 lots of evidence of people being around there and
18 hunting and fishing and --

19 Q. Something I haven't done with you is we've
20 talked about orders of magnitude. What do you mean by
21 orders of magnitude?

22 A. An order of magnitude is if you have one,
23 then an order of magnitude greater than one would be
24 100. An order of magnitude greater than a hundred is a
25 thousand, so if our cleanup level for lead, just

1 of magnitude for the maximum concentration versus the
2 ecotox threshold, just so I understand the system?

3 A. Well, PCBs when you just are looking at -- at
4 soils, a typical cleanup value in a residential
5 scenario for PCBs is 10. It varies. I should say it
6 can vary. It can go down to 1, depending on -- between
7 1 and 10, and then in a residential -- I mean, in an
8 industrial setting for PCBs, it's in the range of 25
9 parts per million. So if you take 25 in an industrial
10 scenario, then it should be 250 parts per million.

11 Q. And here you have a finding of 10,000 parts
12 per million, correct?

13 A. Yes.

14 Q. And what would be the order of magnitude for
15 the finding of 10,000 parts per million?

16 A. Going reverse?

17 Q. Yeah. Well, going from 25 to 10,000.

18 A. You would have to -- you would have to go
19 reverse. Well, I don't understand.

20 Q. Okay. Before you said one order of magnitude
21 if the -- if the action level for PCBs was 25 -- strike
22 that. Let me lay a foundation.

23 First of all, you were not using the ecotox
24 threshold in determining what the order of magnitude was
25 for the last question, were you?

1 because that's an easy one, in a residential scenario
2 is 400, an order of magnitude greater, that would --
3 when I refer to it that way would be 4,000.

4 Q. So you're increasing by a factor of ten each
5 order of magnitude?

6 A. Yeah.

7 Q. Okay.

8 A. Yes. I'm sorry.

9 Q. Let me ask you to turn to page 6 in the chart
10 in Exhibit 17. What compound on this chart would fit
11 your definition of a screamer?

12 A. Under max concentrations?

13 Q. Correct.

14 A. Well, the obvious ones that jump out at me
15 are PCBs and lead. Arsenic is at 6,000. That's well
16 above a TACO number, absolutely well above it.
17 However, arsenic would not be a driver in this case
18 because we've got PCBs and lead. I would have to go
19 back and compare the -- the various volatile organic
20 compounds that are listed here and even Pyrene as to
21 where they fit in the human health realm. When you
22 just compare them to the ecotox realm, every one of
23 those is an order of magnitude, at least an order of
24 magnitude, sometimes two, above the ecotox threshold.

25 Q. With respect to PCBs, what would be the order

1 A. No, I was not.

2 Q. And why did you choose not to use the ecotox
3 threshold?

4 A. Because that's an incredibly low number.

5 Q. And you indicated that a more common number
6 used as an action level is 25 parts per million for
7 residential areas for PCBs, correct?

8 A. For residential, it's between 1 and 10.

9 Q. I'm sorry. Let's use 10, then.

10 A. Okay.

11 Q. So it's your understanding, sir, that 10
12 parts per million is an accepted threshold level,
13 action level for PCBs in residential areas, correct?

14 A. In some circumstances.

15 Q. And here you've got a maximum concentration
16 of 10,000 parts per million reported on Exhibit 17,
17 correct? So what would be the order of magnitude for
18 that finding using the 10 parts per million action
19 level?

20 A. 100.

21 Q. Looking at this chart, are there any other
22 compounds that have a 100 order of magnitude between
23 the action level and what is reported as the maximum
24 concentration?

25 A. Well, I think all of them -- maybe not

1 benzopyrene. Yeah. It would be. It would be.

2 Benzopyrene would be.

3 Q. That's what I get for trying to short-circuit
4 this a little bit. You just used the ecotox threshold
5 to determine an order of magnitude for what's shown on
6 page 6 of Exhibit 17, correct?

7 A. Right.

8 Q. Okay. Let's do it a different way. Do you
9 know what the action -- do you have an understanding of
10 what the Illinois EPA TACO action level is for
11 chlorobenzene?

12 A. No.

13 Q. You know it's higher than the ecotox
14 threshold?

15 A. Yes.

16 Q. How about for the second compound listed on
17 the chart on page 6? Do you know what the EPA -- the
18 Illinois EPA TACO level is for that compound?

19 A. No, but now under TACO, they've got tier one
20 and tier two and tier three.

21 Q. I'm talking about sediment.

22 A. No, I do not.

23 Q. For any of the compounds listed in the chart,
24 are you aware of what the Illinois EPA action level for
25 sediment would be?

1 A. Well, 400 -- an order of magnitude greater
2 than -- greater than 400 is 4,000. However, order of
3 magnitude is -- is not a term of art that is described
4 in CERCLA or the NCP or anything like that. That is
5 merely a term we use in the field to do some quick and
6 dirty screening of the numbers when you see them.
7 You're not going to be able to find that in any kind
8 of -- I don't know, maybe you can -- legal
9 interpretation of what that means. That -- that is a
10 number that I use or, I mean, an approach that I use to
11 look at raw data to make a determination as to whether
12 or not we need to do something or not.

13 Q. And I don't know if you gave me a definition
14 for your term screamers. Can you give me that
15 definition?

16 A. A screamer is what I consider to be something
17 greater than an order of magnitude -- an order of
18 magnitude greater than any action level. Typically I'm
19 looking at it from a human health standpoint.

20 Q. I think you told me before you recognize that
21 different compounds have different toxicity levels,
22 correct?

23 A. Correct.

24 Q. And even if a compound -- different compounds
25 will also have different toxicity even if they're above

1 A. No.

2 Q. Before you testified that you understood that
3 a level of 25 parts per million for PCBs is an action
4 level that is typically used for -- I'm sorry. Ten
5 parts per million is used for that compound, correct?

6 A. For a residential scenario.

7 Q. Do you have a similar understanding for what
8 an action level for chlorobenzene would be for a
9 residential area --

10 A. No.

11 Q. -- for sediment?

12 A. No.

13 Q. How about for any of the other compounds
14 listed on this chart other than lead?

15 A. No. I would have to look those up on the
16 tables.

17 Q. You told me before that you understood the
18 residential action level for lead to be 400 parts per
19 million, correct?

20 A. Yes.

21 Q. And do you have a finding here of maximum
22 concentration of 24,000 PPMs for lead?

23 A. Yes.

24 Q. What would be the order of magnitude of that
25 test result given a 400 action level?

1 a recognized action level?

2 A. Correct.

3 Q. Would you turn to page 4 for me and look at
4 the first full paragraph on Creek Segment B, and would
5 you identify for me what you believe to be screamers as
6 you've defined the term?

7 A. I cannot because I do not know off the top of
8 my head the action level for these in sediments.

9 Q. Okay. Do you know any -- do you recognize
10 any -- for any of the compounds listed here, do you
11 recognize the action levels or a recognized action
12 level for that compound?

13 A. In sediment?

14 Q. Other than PCBs -- in sediment and other than
15 PCBs that we've talked about.

16 A. No. I would have to go to the tables and
17 compare them.

18 Q. Turning to page 6 of the report, at the
19 bottom of the page there's a reference to some of the
20 contaminants in Dead Creek are known carcinogens or
21 suspect carcinogens. Do you see that?

22 A. Yes.

23 Q. Can you identify what compounds you found
24 that were known carcinogens?

25 A. Again, I do not keep this on the tip of my

1 tongue. I believe chlorobenzene is a known carcinogen
2 or a suspect. I don't know. Actually, again, I would
3 go to the tables and refer to those.

4 Q. I'm just asking for your best understanding.
5 If it's easier, why don't we lump together known
6 carcinogens and suspect carcinogens. As you sit here
7 today, do you have an understanding of any of the
8 compounds that are identified in your report as being
9 known carcinogens or suspect carcinogens?

10 A. I think PCBs would fall under -- under that
11 category. I feel pretty confident without going to the
12 tables and looking that up, and chlorobenzene, but the
13 other ones, no, I can't -- I can't remember.

14 Q. And I guess when you issued this report with
15 this statement, were you referring to PCBs and
16 chlorobenzene as known or suspect carcinogens?

17 A. If they fall within the table as well as any
18 of the other ones, too.

19 Q. But today you don't recall anything other
20 than chlorobenzene and PCBs, correct?

21 A. Correct.

22 Q. Let me turn to page 8. In the paragraph
23 applicable or relevant and appropriate requirements,
24 there is a reference to area of concern. Do you see
25 that, AOC?

1 MR. GREENBERG: No. Roger can do it directly.

2 MR. SCHULTZ: Exhibit 18.

3 MR. SEPESI: I'd like to ask a few questions
4 if we have the time. Karen, are we stopping at 6?

5 MS. TORRENT: Roger has a few questions he'd
6 like to put to the witness. Do you want to go before
7 him or after him?

8 MR. SEPESI: That's fine.

9 FURTHER EXAMINATION BY MR. EDGAR:

10 Q. A couple of questions about the pipe.

11 Do these pipes appear to be connected to you
12 at some point?

13 A. No.

14 Q. With respect to the pipe on the east side of
15 the creek, did you observe an outfall for the pipe?

16 A. I did not observe an outfall. I cannot
17 remember if the -- if Solutia's contractor observed an
18 outfall or not.

19 Q. Would that be in some report?

20 A. That should be documented in their daily
21 logs.

22 Q. Okay. And again, you didn't make any
23 determination as to the source of the pipe?

24 A. The one on the east side?

25 Q. I'm talking about the east side.

1 A. Yes.

2 Q. What do you understand -- what do you
3 understand the term area of concern to mean?

4 A. For -- for this -- actually, area of concern
5 is a RCRA -- I believe that is a RCRA term of art, and
6 that is a -- refers to the areas contiguous to or
7 within a site.

8 Q. And I don't want to repeat the questioning
9 that's already been asked, but in terms of area of
10 concern, it's your understanding you were using a RCRA
11 definition for that when this report was issued?

12 A. I believe that's the only definition there
13 is.

14 Q. And that was the definition you intended to
15 use when this report was issued, correct?

16 A. I -- yes.

17 MR. GREENBERG: I have nothing further. Thank
18 you. Oh.

19 MR. EDGAR: Can I ask a couple of questions
20 about that pipe?

21 MR. SCHULTZ: Hang on.

22 MR. EDGAR: I wanted to ask a couple of
23 questions about the pipe.

24 MS. TORRENT: Sure. That's fine. Did you
25 need something else?

1 A. Right. We -- the contractor followed -- I
2 mean, it came from this building right here, and he
3 went up and talked to the -- the owner of the building
4 or I don't know, talked to somebody within the building
5 and they said oh, yeah, that's connected to a drain
6 within our facility.

7 Q. How about on the west side of the creek?

8 A. On the west side of the creek we did not --
9 other than me taking a sample of it, the contractor,
10 Solutia's contractor put a concrete plug into it. They
11 pumped concrete into the -- into the pipe itself and
12 then they put a concrete collar around the outside of
13 it to stabilize it so we wouldn't have failure.

14 Q. Okay. Was any effort made to determine the
15 origin of the pipe on the west side, where it went?

16 A. No.

17 Q. Okay. And was it during the course of the
18 excavation of the sediments that -- was the pipe
19 broken, I mean, the west side pipe?

20 A. During the -- during the excavation, the pipe
21 was not broken. It was merely uncovered.

22 Q. Okay. And did it appear to continue, or was
23 it -- did it appear to terminate in Dead Creek?

24 A. It appeared to terminate in Dead Creek.

25 Q. So there was an outfall there?

1 A. That was the appearance.
 2 Q. Did you observe this?
 3 A. I did observe the pipe.
 4 Q. And at the time that you observed it, it
 5 appeared to be operable, or was it buried beneath the
 6 surface of Creek Segment B?
 7 A. It was buried beneath the surface.
 8 Q. Okay. So did you arrive at any conclusions
 9 as to whether or not it was discharging into Dead Creek
 10 or not at the time you observed it?
 11 A. We'd have to go back and look at the files.
 12 I can't remember if there was some sort of cap or --
 13 or -- on the end of the pipe. I'm vaguely remembering
 14 a cap in a deteriorated state, and then when they came
 15 along and discovered that, I think the cap -- I think
 16 the cap fell off. I don't remember exactly, but I'd
 17 have to go back and look.
 18 Q. Where would you look to find this
 19 information?
 20 A. Solutia's contractor would have it in their
 21 daily records, or even my contractor would have it in
 22 his daily records.
 23 Q. And those are records that are available to
 24 you as you sit here today?
 25 A. They are records that are available to me.

1 However, they haven't been assembled because the
 2 project is ongoing.
 3 Q. Okay. But again, your best recollection was
 4 that when the pipe was first observed, it appeared at
 5 some point in the past it had been capped?
 6 A. I vaguely remember that.
 7 Q. Okay. And there were -- tests were made of
 8 the effluent, and no, to use your term, screamers were
 9 found?
 10 A. That is my recollection.
 11 MR. EDGAR: Okay. Thanks.
 12 EXAMINATION BY MR. SEPESI:
 13 Q. Mr. Turner, my name is Jeff Sepesi. I
 14 represent Mobil Oil Corporation. Because there are
 15 documents to be produced that we haven't been given to
 16 date, I'm going to reserve my rights to continue your
 17 deposition at another time, but I am going to ask you
 18 some questions now which will hopefully focus those
 19 efforts.
 20 As On-Scene Coordinator for the Dead Creek
 21 sediment removal, did you maintain a log or a journal or
 22 a notebook or something that would record your site
 23 visits or meeting notes or telephone calls concerning
 24 the removal action?
 25 A. No.

1 Q. Did you have any method of recording notes
 2 for any of those events? Let me back up. When you
 3 would visit the site, did you take notes or otherwise
 4 record your visits to the site?
 5 A. I would periodically sign in on the sign in
 6 sheet.
 7 Q. Okay.
 8 A. I didn't always do that. My -- my
 9 contractor, however, did keep a daily record.
 10 Q. Who maintained the daily sign in sheets?
 11 A. Solutia's contractor.
 12 Q. How about notes of meetings? I think you
 13 indicated that you attended various meetings during the
 14 course of this project. Did you -- I know you said you
 15 didn't keep them on a regular course -- in the regular
 16 course of business. Do you recall if you ever kept any
 17 notes for any of these meetings?
 18 A. Yes.
 19 Q. And would those be in your files?
 20 A. Yes.
 21 Q. How about telephone logs, logs of telephone
 22 conversations with your contractors or with Solutia or
 23 other individuals?
 24 A. Rarely, if ever.
 25 Q. And if you did, would those be in your files?

1 A. Yes.
 2 Q. Who was your contractor? You mentioned there
 3 was a contractor. Who was that?
 4 A. My oversight contractor was Tetrateck EMI.
 5 Q. And do you recall which individuals at
 6 Tetrateck were on this project?
 7 A. I had four individuals; three individuals and
 8 then one guy filled in, and yes, I recall their names.
 9 Q. And what are their names?
 10 A. The first one was Art Currier. He currently
 11 lives in Iowa. The second one who filled in
 12 periodically for Art Currier was Joe Parrish. The
 13 third one from Tetrateck EMI was Tom Bins, and the last
 14 one is Ron Carroll.
 15 Q. Which of those individuals would have been
 16 your direct contact, whether project manager or
 17 whatever the term would be?
 18 A. All of them.
 19 Q. All of them?
 20 A. They were not there simultaneously. Art
 21 Currier was there primarily during the -- the early
 22 phases of the cell construction. He moved up to Iowa,
 23 so they brought in another guy. Joe Parrish was there
 24 when Art Currier was on vacation. All of these people
 25 would report directly to me.

1 Q. So there was no hierarchy within Tetrateck?
 2 A. They do have a hierarchy, but not on this
 3 site.
 4 Q. Was there always a Tetrateck person there
 5 when there was some sort of work going on at Dead
 6 Creek?
 7 A. I would say 95 percent of the time.
 8 Q. Okay.
 9 A. We would make determinations as to the
 10 importance of that work, and I would either send them
 11 home or keep them there depending on what was
 12 happening.
 13 Q. Okay. You said your contractor also reviewed
 14 certain documents for you; is that correct?
 15 A. Yes.
 16 Q. And that would be these same individuals or
 17 at least some of these --
 18 A. Some of these individuals. The later people
 19 such as Ron Carroll probably didn't review a single
 20 document.
 21 Q. Okay. And you said that they would keep a
 22 daily record for at least their time in the field?
 23 A. Yes.
 24 Q. And would they submit that to you?
 25 A. They have not submitted anything to me. It

1 is -- it is mine for when I -- for when I want it or
 2 need it, but they -- they are the keepers of it.
 3 Q. Did they prepare any reports for you?
 4 A. Yes.
 5 Q. What kind of reports?
 6 A. They would prepare -- they would be the --
 7 the rough -- they would prepare the rough draft of
 8 something called a POLREP, and that is a pollution
 9 report, and the POLREP is intended to -- for the
 10 distribution list to update primarily my management as
 11 well as various other agency people as to the -- the
 12 progress being made.
 13 Q. They would prepare the rough draft, and then
 14 you would review it and finalize it?
 15 A. They would give it to me, and I would change
 16 it accordingly, and they would -- generally they would
 17 e-mail it out.
 18 Q. E-mail it out to who?
 19 A. To the -- to the recipient list.
 20 Q. And that would be your management?
 21 A. It was my management, Illinois EPA, a number
 22 of people in Illinois EPA, Illinois DNR, US Fish &
 23 Wildlife Service. It would go to an individual in --
 24 in DC, EPA in DC. It was always government
 25 individuals. It was not -- it's not intended for

1 private industry.
 2 Q. How many POLREPs have been prepared to date?
 3 A. I want to say seven.
 4 Q. And those would be in your files?
 5 A. They would be in my files.
 6 MR. SEPESI: Karen, I don't think we've seen
 7 any POLREPs or any of these other logs or reports or
 8 notes that Mr. Turner has identified in the last couple
 9 minutes, and I guess I would ask you to either obtain
 10 copies of them or perform whatever review you need to.
 11 MS. TORRENT: I'd be happy to. To the extent
 12 I don't want to miss any of your requests, put all of
 13 your items in a letter to me. That would facilitate it
 14 a little bit.
 15 MS. TAPE: Jeff, I believe the POLYREPs are on
 16 the CD-ROM.
 17 MS. TORRENT: I can check.
 18 MS. TAPE: The POLYREPs are on a CD-ROM, I
 19 believe.
 20 MR. SEPESI: I believe there was just one for
 21 this action and the rest were for --
 22 MS. TAPE: We pulled six or seven of them.
 23 THE WITNESS: You called them POLYREPs.
 24 MS. TORRENT: Yes. We have produced them.
 25 MR. SEPESI: Okay.

1 Q. (By Mr. Sepesi) Mr. Turner, in answering
 2 questions of Mr. Hooker, he asked you about various
 3 meetings between the EPA and Solutia at various points
 4 in time. I think you indicated there would be
 5 attendance sheets or sign in sheets for those meetings?
 6 A. Yes.
 7 Q. Where would those sheets be maintained?
 8 A. My guess is is that I either have them in my
 9 files or remedial up in Chicago has them in their
 10 files, or I'm sure Solutia or their contractors have
 11 them in their files. We would send around a sign in
 12 sheet, and then we'd make photocopies of it and
 13 everybody would take them.
 14 Q. Now, Mr. Hooker asked you about I think the
 15 first meeting where the Cahokia plan as was described
 16 was presented to you by Solutia. Were there any
 17 handouts or any materials that they provided to you at
 18 that meeting?
 19 A. I cannot remember if there was any handouts
 20 from that or whether stuff -- something came to me. I
 21 don't remember.
 22 Q. To the extent there were, would those be in
 23 your files?
 24 A. If I got them, they would be in my file. I
 25 don't throw anything away.

1 Q. Okay. You indicated that your contractor
2 would review various reports for you, submittals.
3 Besides your contractor and besides yourself, anybody
4 else at US EPA who would have reviewed any of the
5 reports prepared by Solutia?

6 A. Mike McAteer would have been given the
7 opportunity to review them, and he did review and
8 comment on the work plan. By and large, though, once
9 we got beyond the work plan, he did not comment on
10 things. Tom Martin would have been given the
11 opportunity to review things and might have given me
12 some verbal, over the phone, a comment here, a comment
13 there that I would have just incorporated in. The one
14 guy, Steve Johnson, who is a TSCA person up in Chicago
15 with US EPA who participated in one meeting was given
16 some documents to review, but the primary reviewer for
17 the containment cell was Illinois EPA, and that was a
18 gentleman by the name of Rob Watson up in Springfield,
19 and he -- he was the -- he was the driver behind making
20 the containment cell compliant with Illinois EPA rules
21 and regs.

22 Q. Okay. Who would have reviewed the -- the
23 containment cell for compliance with TSCA rules given
24 that the state does not have TSCA authority?

25 A. That would have been Steve Johnson.

1 Q. Steve Johnson. Who would have reviewed
2 the -- the alternatives evaluation that Mr. Hooker
3 showed to you earlier?

4 A. That was Mike McAteer and myself.

5 Q. Anybody else?

6 A. Maybe -- maybe Tom Martin.

7 Q. Okay. Now, in the alternative evaluation,
8 they indicated that EPA had suggested a couple disposal
9 sites. One was sending materials to, like, Canada. Do
10 you recall -- do you recall seeing that?

11 A. I -- I need to look at the document. What --
12 what are you referring to?

13 Q. The November 8th --

14 A. Yeah.

15 Q. I see that here, but where are you referring
16 to?

17 A. The off site --

18 Q. The off site incineration?

19 A. I see that.

20 Q. Is that who the US EPA identified as a
21 potential off site incineration?

22 MS. TORRENT: I'm going to object to that
23 answer under the auspices of 113J. The Administrative
24 Record will hopefully speak for itself and instruct him
25 not to answer that particular question. If you want to

1 ask him -- I think your -- partially your question is
2 going to, but if you're going to ask who made a decision
3 or determination, I'm going to have to block that.

4 Q. (By Mr. Sepesi) Who recommended that site, do
5 you recall?

6 MS. TORRENT: You can answer that question.
7 Solutia, correct?

8 Q. (By Mr. Sepesi) No. Who at EPA? It says EPA
9 identified that site for Solutia.

10 MS. TORRENT: I would instruct the witness not
11 to answer that question and object on the grounds of
12 113J.

13 MR. SEPESI: Well, we'll come back to this at
14 a later time, then.

15 Karen, for the record, not responding to your
16 objection right now does not mean we're accepting that
17 line of argument at this point.

18 MS. TORRENT: I never thought you would.

19 Q. (By Mr. Sepesi) You were asked questions by
20 Mr. Hooker regarding the sediment removal, and I think
21 you talked about the post-removal sampling. You divided
22 the activities into sort of Phase 1 and Phase 2. Do you
23 recall that, Phase 1 being your removal and Phase 2
24 would be a subsequent removal based on comparison to
25 post-removal sampling action levels?

1 A. Yes.

2 Q. I believe you said that that has, in essence,
3 been done but it's sort of in the review process. The
4 risk assessment is sort of in the review process,
5 correct?

6 A. Correct.

7 Q. What are those action levels that the
8 post-excavation sampling are being compared to in the
9 risk assessment?

10 A. I don't know. The risk assessment is -- it
11 is outlined in the risk assessment. I'm not reviewing
12 the risk assessment.

13 Q. Who is reviewing the risk assessment?

14 A. Mike Riboridy.

15 Q. Do you know, have you looked at the risk
16 assessment at all?

17 MS. TORRENT: Objection to the form of the
18 question. It calls for speculation.

19 You may answer to the extent that you know.

20 A. I do not or --

21 Q. (By Mr. Sepesi) You have not?

22 A. I have not.

23 Q. So then if I understand your previous
24 testimony, the Phase 1 of this activity, the removal of
25 the sediments were based purely on the physical

1 criteria, is that correct, that were laid out I believe
2 in Exhibit 17? No. I'm sorry. Laid out in the UAO,
3 right?

4 A. The four criteria that were laid out in the
5 UAO are the criteria that we used for the initial
6 removal.

7 Q. So I guess my question is if -- if those four
8 criteria are the basis of the removal and not
9 comparison to an actual in place concentration of
10 chemicals to action levels, how do you know that you
11 have not removed more sediment than would be necessary
12 to remove contaminated materials above action levels?

13 A. We don't.

14 Q. So you could have removed two times, ten
15 times, or no -- no more than the amount of contaminated
16 sediments?

17 A. Yes. However, the -- the -- the operators of
18 the heavy equipment that were doing the removal very
19 quickly learned what was native sediment and what
20 wasn't, and they very quickly could tell -- from a
21 visual standpoint when you are just moving down through
22 the creek, you could tell what was native and what
23 wasn't native, so in my opinion, the -- the amount that
24 was not above an action level, an actionable level was
25 probably minimal.

1 Q. I guess I'm confused. I thought you said
2 earlier that you weren't knowledgeable of the results
3 of the RIFS/EECA.

4 A. I'm not. I didn't know what those levels
5 were of the EECA.

6 Q. So you're just saying you're able to see
7 non-native versus native?

8 A. This is just common -- common removal
9 practice that you can -- that you -- that the results
10 of analytical will show you you're about six inches or
11 twelve inches or whatever depth you are, and you scrape
12 that off the top, and you're pretty dang close.

13 Q. I'm sorry. When you say six inches, what --

14 A. Of contamination. You might have six, twelve
15 inches of contamination, whatever. I don't know what
16 it was out there exactly.

17 Q. That's from your general experience with
18 sediments as opposed to your specific experience with
19 Dead Creek sediment?

20 A. Both.

21 Q. I thought you said you didn't review the data
22 from Dead Creek sediment, the EECA and what their
23 results were.

24 A. I didn't.

25 Q. Then I'm confused. How are you making a

1 Q. Because a material is non-native sediment,
2 does that necessarily mean it's contaminated?

3 A. No.

4 Q. So how do you know that removal of non-native
5 sediment isn't an overexcavation of materials?

6 A. Because there was enough analytical to show
7 the depth of the contamination throughout this creek
8 segment, and then that was subsequently supported by
9 the analytical -- or I mean by excavating down to a
10 non-native level, scraping off the top of that
11 non-native level, and having analytical that shows --
12 that shows that that is -- that you've reached it or
13 have gone the extent you need to go.

14 Q. So you have reviewed the post-excavation
15 sampling results?

16 A. No.

17 MS. TORRENT: No.

18 Q. (By Mr. Sepesi) Then how did you reach that
19 last conclusion?

20 A. The analytical from the RIFS/EECA process
21 would take various depths of the sediment within the
22 creek segment. You go three inches or whatever the
23 depths are, six inches. As you do your corings down in
24 the creek segment, you can see when you've reached
25 non-native material.

1 six-inch correlation if you haven't looked at that
2 data?

3 A. I didn't review it. Other people did.

4 Q. So other people have told you this, in other
5 words?

6 A. Uh-huh.

7 Q. Who are those people?

8 A. Solutia's contractors and the operators of
9 the heavy equipment.

10 Q. Who are the Solutia contractors that you've
11 had these contacts or discussions with?

12 A. Solutia's prime contractor was Maverick.
13 Maverick. I don't remember Maverick what.

14 Q. What individual at Maverick or individuals?

15 A. John Fiore. He was the primary person that I
16 talked to on a regular basis. And then Solutia -- or
17 I'm sorry. Maverick then subcontracted out to Heritage
18 Environmental and Environmental Restoration, and I
19 would talk with the various operators of the heavy
20 equipment to get a feeling for what depth are you
21 going, how do you know if you're getting deep enough,
22 are you in native, non-native. I would have those
23 conversations as well as my oversight contractor would
24 have those conversations as part of their regular
25 duties.

1 Q. But you can't tell by looking at a sediment
 2 sample whether or not PCBs are high or low, can you?
 3 A. No.
 4 Q. You have to do testing; is that correct?
 5 A. Correct.
 6 Q. You have not reviewed the testing data as the
 7 On-Scene Coordinator?
 8 A. Correct.
 9 Q. Prior to starting the actual sediment
 10 removal, did you or someone, anybody else at EPA that
 11 you know of or your contractor look at the existing
 12 data for chemicals in the sediment in Dead Creek and
 13 compare it to any sort of action levels systematically
 14 to identify all areas above action levels?
 15 A. Nobody within EPA did that, nor did my
 16 contractor do that.
 17 Q. Do you know if anybody did that?
 18 A. I would assume that Solutia's contractor did
 19 that.
 20 MS. TORRENT: Can we --
 21 Q. (By Mr. Sepesi) You say you're assuming, but
 22 you don't know for a fact?
 23 A. I don't know for a fact.
 24 MS. TORRENT: Mr. Sepesi, may I interrupt you
 25 just for one second. We're now approaching the 6:00

1 hour, and I notice you are going to have additional
 2 questions of the witness.
 3 MR. SEPESI: Let me just cover a couple
 4 different points real quickly and I'll be done.
 5 Q. (By Mr. Sepesi) Exhibit 17. You said that
 6 you're not the only author, that Mr. McAteer and Tom
 7 Martin also contributed to that. That's your action
 8 memorandum?
 9 A. Yes.
 10 Q. Then why are -- why is only your name listed
 11 as -- on the title page?
 12 A. Because this action was done under the
 13 removal program, removal authority, and I am the
 14 On-Scene Coordinator under the removal authority. Mike
 15 McAteer is under the remedial authority and the RPM
 16 under remedial, and if we had been doing this under
 17 remedial, this particular action, then he would have
 18 signed it.
 19 Q. But is it standard practice of the EPA not to
 20 list all the authors of reports?
 21 MS. TORRENT: Objection to the form of the
 22 question.
 23 You can answer if you know.
 24 A. I -- I don't think that's -- I -- standard
 25 practice, I don't know. I don't know.

1 Q. (By Mr. Sepesi) So you're saying the only
 2 reason they weren't listed is because this was a removal
 3 action program?
 4 A. Yes, and Tom Martin would never be listed on
 5 an action memo regardless.
 6 Q. Even though he's an author?
 7 A. Even though he's a contributor to, correct.
 8 You know, Tom Martin's supervisor reviews this, too,
 9 and she might change a sentence here or there, and
 10 she's not listed.
 11 Q. Well, let me ask you this. On that report
 12 your contribution is 50 percent, 40 percent, 75 percent
 13 of the text if you had to put a number on it?
 14 A. I couldn't put a number on it.
 15 Q. You also said you relied on other reports,
 16 IEPA reports and various other existing reports?
 17 A. Correct.
 18 Q. Did you review any of those reports to make
 19 sure that those reports were, in fact, factually
 20 correct?
 21 A. Yes. I would have reviewed some of them.
 22 Which ones, I don't know.
 23 Q. Okay. One last set of questions.
 24 During the removal of sediments from Creek
 25 Segment B, the first step would be to de-water Creek

1 Segment B; is that correct?
 2 A. Actually, the first step for the entire creek
 3 was to de-water it up through -- up to Creek Segment E,
 4 about the middle of Creek Segment E. We de-watered the
 5 entire creek all at once.
 6 Q. Once Creek Segment B was de-watered, did you
 7 have an occasion to observe Creek Segment B in that
 8 state?
 9 A. Yes.
 10 Q. Did you observe any seeps or any indication
 11 of groundwater discharging to Creek Segment B?
 12 A. Not to Creek Segment B.
 13 Q. I assume that -- I -- I would assume that
 14 your de-watering system has been closed down or
 15 removed?
 16 A. It has been removed.
 17 Q. If the risk assessment shows that certain
 18 chemicals are above action levels, what would be the
 19 next step?
 20 A. For Creek Segment B, we have one scenario.
 21 For the remaining creek segments, we have another
 22 scenario.
 23 Q. What are those?
 24 A. The remaining creek segments will more than
 25 likely be -- further excavation will be required. For

1 Creek Segment B, we contemplated in the UAO that the --
 2 that the levels might not be achievable and that a
 3 liner type system could be put in place to contain
 4 those -- the remaining contamination in place.
 5 Q. A plastic liner, something like that?
 6 A. It's more like a concrete mat system. It
 7 needs to be something that is more penetrable.
 8 Q. Okay. Do you know why it was decided to
 9 perform a time critical removal action instead of a
 10 remedial action for the Dead Creek sediment?
 11 MS. TORRENT: I'm going to object to the
 12 question on the basis of 113J and instruct the witness
 13 not to answer that question.
 14 MR. SEPESI: Okay. We'll revisit that later.
 15 Thank you.
 16 MR. EDGAR: Are we done?
 17 MR. SCHULTZ: No. I've got a few.
 18 MR. EDGAR: Oh, man. I'm out of gas.
 19 I don't know about you. You're answering all
 20 the questions.
 21 MR. SCHULTZ: Miss Torrent, are you ready?
 22 FURTHER EXAMINATION BY MR. SCHULTZ:
 23 Q. Mr. Turner, Rob Schultz again. Good
 24 afternoon.
 25 I was -- I think you told me before that you

1 A. I would believe that these are true
 2 statements.
 3 Q. (By Mr. Schultz) Why do you believe that?
 4 A. Based upon the information --
 5 Q. What is the information -- go ahead and say
 6 that.
 7 A. Based on the information and beliefs about
 8 the parties which generated waste. Based upon --
 9 again, I referred to the documents that were reviewed
 10 to create this document.
 11 Q. Can you tell me when Rogers Cartage
 12 contributed any pollutants or hazardous materials to
 13 Dead Creek?
 14 MS. TORRENT: Mr. Schultz, just let me object
 15 to this line of questioning. In your line of
 16 questioning earlier, you asked him if he had any other
 17 knowledge, any independent knowledge about Rogers
 18 Cartage, and the answer was no. You are now coming back
 19 to this document which speaks for itself and asking him
 20 the same series of questions. To that extent, I object,
 21 and my objection is to form and also to speculation.
 22 You can answer the question if you can.
 23 A. Could you restate the question?
 24 Q. (By Mr. Schultz) Do you believe -- let me ask
 25 you this. Can you tell me when Rogers Cartage

1 don't have any direct knowledge of Rogers Cartage
 2 contributing any hazardous material to Dead Creek.
 3 Would you agree with me there?
 4 A. Other than what is in the UAO, I do agree
 5 with you.
 6 Q. And is that Exhibit 18?
 7 A. That is Exhibit 18.
 8 Q. Okay. Now, do you know if these statements
 9 about Rogers Cartage in Exhibit 18 are true or false?
 10 I have it right here. I have Exhibit 18 right here.
 11 MS. TORRENT: Is that Exhibit 18?
 12 MR. SCHULTZ: Yes, it is.
 13 MS. TORRENT: Can I have it, please?
 14 MR. SCHULTZ: You sure can. Try not to lose
 15 my spot.
 16 MS. TORRENT: Is that yours?
 17 MR. SCHULTZ: No. It's yours.
 18 MS. TORRENT: Where are you?
 19 MR. SCHULTZ: Page 6.
 20 Q. (By Mr. Schultz) Page 6 on Exhibit 18, do you
 21 know if those statements about Rogers Cartage are true
 22 or false, Mr. Turner?
 23 MS. TORRENT: Object to the form of the
 24 question.
 25 You may answer it.

1 contributed any waste, pollutants, or contaminants into
 2 Dead Creek?
 3 MS. TORRENT: Based upon the document he has
 4 before him; is that right? You've asked him this
 5 question before.
 6 A. Based upon the document in front of me, no.
 7 Q. (By Mr. Schultz) And can you tell me what
 8 contaminants based on the document that you believe
 9 Rogers Cartage contributed to Dead Creek?
 10 MS. TORRENT: Object to the form of the
 11 question again. It may call for speculation, and you
 12 also asked that question previously, I believe.
 13 You may answer the question.
 14 A. Based upon the document in front of me, no.
 15 Q. (By Mr. Schultz) Do you know the amount of
 16 any contaminants or pollutants Rogers Cartage
 17 contributed to Dead Creek?
 18 MS. TORRENT: Same objection.
 19 You may answer.
 20 A. Based upon the document in front of me, no.
 21 Q. (By Mr. Schultz) Do you know how Rogers
 22 Cartage contributed pollutants or contaminants into Dead
 23 Creek?
 24 MS. TORRENT: Answer the question if you can.
 25 A. Based upon the document in front of me, no.

1 Q. (By Mr. Schultz) Now, the document in front
2 of you, Exhibit 18, that was part of the administrative
3 proceeding; is that right?

4 MS. TORRENT: No. Sorry. Objection to the
5 form of the question.

6 You may answer if you can.

7 A. It is an administrative order. Let me see.

8 Pursuant to Section 106A.

9 Q. (By Mr. Schultz) Who are the respondents?

10 MS. TORRENT: Objection to the form of the
11 question. The document speaks for itself. The
12 respondents are listed.

13 You may answer the question.

14 A. Monsanto Company and Solutia, Incorporated.

15 Q. (By Mr. Schultz) Is Rogers Cartage a
16 respondent?

17 MS. TORRENT: Objection to the form of the
18 question. The document speaks for itself.

19 A. Rogers Carthage is not listed.

20 Q. (By Mr. Schultz) Is Rogers Cartage bound by
21 that document, Exhibit 18?

22 MS. TORRENT: Objection to the form of the
23 question. Is it bound?

24 MS. TAPE: I would object to this as asking
25 for a legal conclusion.

1 A. I don't think that's within my expertise.

2 Q. (By Mr. Schultz) On page 2 is there a section
3 of Exhibit 18 that lists the parties that are bound.

4 A. Yes.

5 Q. Who is bound?

6 A. I will read the first paragraph, parties
7 bound. This order applies to and is binding upon the
8 respondents and respondents' heirs, receivers,
9 trustees, successors and assigns.

10 Q. To your knowledge, is Rogers Cartage a
11 respondent or one of the other categories of parties
12 bound by Exhibit 18?

13 MS. TORRENT: Objection to the form of the
14 question. It has been asked and answered a couple of
15 times.

16 You may answer the question.

17 A. No.

18 Q. (By Mr. Schultz) Would you look at Exhibit
19 18, paragraph 3 on page 3, and then would you compare
20 that to Exhibit 17, paragraph 2A on page 2? Have you
21 had a chance to look at those two documents and the
22 sections I referred you to?

23 A. I have perused it.

24 Q. Would you agree with me that paragraph 3 of
25 Exhibit 18 is essentially copied from paragraph 2A of

1 Exhibit 17?

2 MS. TORRENT: Or vice versa?

3 A. They appear to be the same. I haven't done a
4 word-by-word comparison.

5 Q. (By Mr. Schultz) Okay. Could I see the two
6 exhibits again, 17 and 18? And then would you look at
7 paragraph -- excuse me -- at Exhibit 18 on page 2,
8 paragraph 1 and then would you compare that to paragraph
9 B, site background, on page 3 of Exhibit 17? Would you
10 agree with me that those two paragraphs are essentially
11 identical?

12 A. I have not done a word-by-word comparison,
13 but it appears to be.

14 Q. You mentioned before that you had some
15 conversations with a Mr. Mensing from Illinois EPA; is
16 that correct?

17 A. That's correct.

18 Q. Did you keep any notes of those
19 conversations?

20 A. No.

21 Q. Did Mr. Mensing ever indicate to you whether
22 he took notes of those conversations?

23 A. No.

24 Q. Were there any correspondence or messages
25 confirming the contents of your communications with

1 him?

2 A. No.

3 MR. SCHULTZ: Thank you. I'll pass the
4 witness.

5 MS. TORRENT: Anybody else?

6 MR. SEPESI: Before we go off the record,
7 earlier you had asked me to send a letter with the
8 documents that I've identified. I would ask in the
9 alternative that given the government's obligations
10 under Rule 26 and discovery posed by various parties
11 that the government would review the record of this
12 transcript to the extent it identifies any documents
13 that the government has not yet produced that are in its
14 possession, custody, or control to supplement its -- its
15 disclosures.

16 MS. TORRENT: So you're saying you're not
17 going to issue a letter to me?

18 MR. SEPESI: Yes.

19 MS. TORRENT: Well, I'm not going to review
20 the transcript to find out these documents, either.

21 MR. SEPESI: I think the government has an
22 obligation --

23 MS. TORRENT: We're aware of our
24 obligations under the federal rules and will act
25 accordingly.

1 MR. HERMELING: Should we set the date for the
2 continuation?

3 MS. TORRENT: No. We cannot set a date for
4 the continuation.

5 MR. HERMELING: I'm sorry?

6 MS. TORRENT: No. We cannot set a date today
7 for the continuation of the deposition.

8 MR. SEPESI: I guess why not?

9 MS. TORRENT: Do you want to go on the record
10 for this or off the record?

11 (There was a discussion off the record, and
12 the deposition was adjourned.)
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25

1 STATE OF)

2 CITY OF)
3

4 I, KEVIN TURNER, ON-SCENE COORDINATOR, do hereby state
that the foregoing statements are true and correct, to
5 the best of my knowledge and belief.
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12

13 Subscribed and sworn to before me this _____ day of
_____, 2002.
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19
20

Notary Public

21
22
23 My Commission expires:

(TMB)
24
25

1 CERTIFICATION

2
3 I, Traci Butz, Certified Shorthand Reporter within and
4 for the State of Missouri, DO HEREBY CERTIFY that
5 pursuant to notice/agreement between the parties, the
6 aforementioned witness came before me at the time and
7 place hereinbefore mentioned, and having been duly sworn
8 to tell the whole truth of his knowledge touching upon
9 the matter in controversy aforesaid; that he was
10 examined on that day, and his examination was taken in
11 shorthand and later reduced to printing; that signature
12 by the witness is not waived and said deposition is
13 herewith forwarded to the taking attorney for filing
14 with the Court.

15 IN WITNESS WHEREOF, I have hereunto subscribed my name
16 this 30th day of July, 2002.
17
18
19
20

Traci Butz
Certified Shorthand Reporter
21
22
23
24
25

1 KEVIN TURNER, ON-SCENE COORDINATOR
2 DEPOSITION CORRECTION SHEET
3

4 In Re: UNITED STATES OF AMERICA V. PHARMACIA
CORPORATION, ET AL.; PHARMACIA CORPORATION
5 AND SOLUTIA, INC. V. UNITED STATES OF
AMERICA, ET AL., NO. 99-3-DRH
6

7 Reported By: TMB

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July 30, 2002

United States Department of Justice
Environmental Enforcement Section
Karen Torrent, Esq.

PO Box 7611
Ben Franklin Station
Washington, DC 20044

RE: UNITED STATES OF AMERICA V. PHARMACIA
CORPORATION, ET AL.; PHARMACIA CORPORATION
AND SOLUTIA, INC. V. UNITED STATES OF AMERICA,
ET AL., NO. 99-63-DRH

Dear Ms. Torrent:

Enclosed please find your copy of the transcript of the
deposition testimony of KEVIN TURNER taken on July 16,
2002, in the above-captioned matter. I understand you
will obtain signature from Mr. Turner.
After he has reviewed the transcript and made any
necessary corrections on the deposition correction sheet
incorporated at the end of the transcript, please have
him sign the original signature page in the presence of
a notary public and return the signature page, along
with the correction sheets, directly to J. Roger Edgar,
Esq. at the law firm of Greensfelder, Hemker & Gale,
P.C.

If you have any questions regarding this matter, please
do not hesitate to contact me at (314) 231-2202.

Sincerely,

Traci Butz, CSR, CRR

Enclosures

cc: All counsel of record

A				
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